

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
3 - - - - -
4 The State of Minnesota,
5 by Hubert H. Humphrey, III,
6 its attorney general,
7 and
8 Blue Cross and Blue Shield
9 of Minnesota,
10 Plaintiffs,
11 vs. File No. C1-94-8565
12 Philip Morris Incorporated, R.J.
13 Reynolds Tobacco Company, Brown
14 & Williamson Tobacco Corporation,
15 B.A.T. Industries P.L.C., Lorillard
16 Tobacco Company, The American
17 Tobacco Company, Liggett Group, Inc.,
18 The Council for Tobacco Research-U.S.A.,
19 Inc., and The Tobacco Institute, Inc.,
20 Defendants.
21 - - - - -

22 TRANSCRIPT OF PROCEEDINGS
23 VOLUME 31, PAGES 5879 - 6152
24 MARCH 3, 1998
25

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

1 P R O C E E D I N G S.
2 THE CLERK: All rise. Ramsey County
3 District Court is again in session, the Honorable
4 Kenneth J. Fitzpatrick now presiding.
5 (Jury enters the courtroom.)
6 THE CLERK: Please be seated.
7 THE COURT: Good morning.
8 (Collective "Good morning.")
9 (Witness resumes the stand.)
10 THE COURT: Counsel.
11 MR. CIRESI: Thank you, Your Honor.
12 Good morning, ladies and gentlemen.
13 (Collective "Good morning.")
14 GEOFFREY C. BIBLE
15 called as a witness, being previously
16 sworn, was examined and testified as
17 follows:

18 ADVERSE EXAMINATION (cont'd)

19 BY MR. CIRESI:
20 Q. Good morning, Mr. Bible.
21 A. Good morning, Mr. Ciresi.
22 Q. Sir, when we recessed yesterday, we were talking
23 about Mr. Lincoln's 1958 memorandum to Mr. Millhiser,
24 who was the vice chairman of the company -- or who
25 became the vice chairman of the company, regarding

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1 Mr. Lincoln's recommendation that benzpyrene must go.
2 Do you remember that?
3 A. I recall it. Could I refer to the document

4 again, please?
5 Q. Absolutely, sir. Exhibit 10686 in volume one.
6 A. (Coughing) Excuse me.
7 Yes, I have it.
8 Q. And you see down there at the bottom that Mr.
9 Lincoln's analysis led to the conclusion that
10 benzpyrene must go. Do you see that?
11 A. Yes, I see that.
12 Q. Now over the course of years, Philip Morris
13 identified other carcinogens in its tobacco smoke;
14 correct?
15 A. I don't know that. What I have been told -- I
16 think I said yesterday that it has been identified
17 that there are animal carcinogens in cigarette smoke.
18 Q. Can you direct your attention to Exhibit 10300.
19 It's in the same volume, sir.
20 A. Yes, I have it.
21 Q. Now this is --
22 If you turn to the second page, you'll see that
23 the title is "PHILIP MORRIS INCORPORATED, TOBACCO AND
24 HEALTH-R&D APPROACH, Presentation to R&D Committee by
25 Dr. H. Wakeham at meeting held in New York Office on
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1 November 15th, 1961." Do you see that?
2 A. Yes, I do.
3 MR. CIRESI: Okay. Your Honor, we'd offer
4 Exhibit 10300.
5 MR. BLEAKLEY: No objection.
6 THE COURT: Court will receive Exhibit
7 10300.
8 BY MR. CIRESI:
9 Q. Now sir, can you direct your attention to the
10 first page. And you see the title there that we just
11 read?
12 A. Yes.
13 Q. And if you go to the next page, there's a table
14 of contents; correct?
15 A. Yes.
16 Q. It has various titles, "Chemistry of Tobacco
17 Smoke, The Cancer Controversy, Smoking and
18 Cardiovascular Diseases, R&D Program Leading to a
19 Medically Acceptable Cigarette," and then "Summary."
20 Do you see that?
21 A. Yes.
22 Q. Can you direct your attention to the next page.
23 Now it's reported there, sir, that in 1961 Philip
24 Morris had identified 400 compounds of which 50 had
25 been identified for the first time by the Philip
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1 Morris Research Center.
2 A. Yes, that's what it says.
3 Q. Do you know if at that time Philip Morris made
4 any disclosure of that information to the public?
5 A. No, I have no idea, sir.
6 Q. Has anybody ever told you that they did?
7 A. No, nobody has.
8 Q. Have you seen any documents which would indicate

9 that they did?
10 A. No, I have not, sir.
11 Q. Sir, can you direct your attention to the next
12 page. And is there listed there composition of
13 mainstream smoke in both the gas phase and
14 particulate phase?
15 A. Yes, I can see that.
16 Q. Do you have any understanding of gas -- or
17 cigarette smoke, that it is composed of both a gas
18 phase and a particulate phase?
19 A. Well somewhat, but not in depth. I'm not a
20 scientist. But I have a vague understanding of it.
21 Q. And you see under the "GAS PHASE" that there are
22 various chemical compounds listed?
23 A. Yes, I do.
24 Q. And do you know if those chemical compounds are
25 carcinogenic?

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1 A. Do I know that?
2 Q. Yes.
3 A. No, I don't.
4 Q. Can you direct your attention to the page which
5 has the number 430.
6 A. Yes.
7 Q. And here definitions are provided; correct?
8 A. Yes, that's right.
9 Q. And carcinoma is defined as a malignant growth
10 arising from the epithelial tissue; correct?
11 A. That's what it says, sir, yes.
12 Q. And you're aware that the lung has an epithelial
13 lining; correct?
14 A. Well I'm not aware of that, but I certainly am
15 aware that the lung has tissue.
16 Q. And you see where sarcoma is defined as a
17 malignant growth arising from connective or muscle
18 tissues?
19 A. Yes, I can see that.
20 Q. And then a carcinogen is defined as a substance,
21 when applied to the tissue of a test animal, gives
22 rise to tumor formation in tests for carcinogens. It
23 is assumed that tumors ultimately lead to cancerous
24 growths and that a carcinogen so demonstrated in test
25 animals is dangerous to man. Do you see that?

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1 A. Yes, I read that.
2 Q. Now this would be an animal test; correct?
3 A. Yes, that's what it says.
4 Q. And it would be an animal test on the tissue of
5 the animal; correct?
6 A. Yes. It doesn't say exterior or internal
7 though.
8 Q. But it would be on the tissues, since that's
9 what's described in the definition, sir?
10 A. Yes, I agree.
11 Q. Did Philip Morris in 1963 make any disclosure to
12 the public that a carcinogen demonstrated in animal
13 tests is dangerous to man?

14 A. I have no idea, sir.
15 Q. Has anybody ever told you if they did?
16 A. No, nobody has.
17 Q. Have you seen any documents that would indicate
18 that they did?
19 A. No, I have not seen any document. I have not
20 gone back.
21 Q. Now can you direct your attention to page 434 of
22 the same document.
23 A. Yes.
24 Q. And is there listed here a partial list of
25 compounds in cigarette smoke identified as
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1 carcinogens?
2 A. Yes. That's the title.
3 Q. And some of those are arsenic; correct?
4 A. Yes.
5 Q. Benzopyrene?
6 A. Yes.
7 Q. Chromium?
8 A. Yes.
9 Q. Cobalt?
10 A. Yes.
11 Q. Xylene?
12 A. Yes, I see that.
13 Q. Ethyl alcohol?
14 A. Yes.
15 Q. Are you familiar with any of these chemical
16 compounds, sir?
17 A. I'm not familiar with any of them. I've heard
18 the names naturally. I think some of them probably
19 arise in the tobacco plant itself, sir.
20 Q. Did Philip Morris in 1963, or for that matter at
21 any time, disclose to the public that it had
22 identified as early as 1963 this list of carcinogens
23 in the tobacco smoke of its cigarettes?
24 A. Well it might have, but I don't know.
25 Q. You've never seen any such document that would
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1 reflect that; have you, sir?
2 A. No, I have not.
3 Q. You've never seen any newspaper advertisement
4 about that; correct?
5 A. No, I have not, sir.
6 Q. Now can you direct your attention to page 442.
7 A. Yes.
8 Q. "REDUCTION OF CARCINOGENS IN SMOKE." Do you see
9 the title, sir?
10 A. Yes, I do.
11 Q. Now did Philip Morris at any point in time
12 advise the consuming public that carcinogens are
13 found in practically every class of compound in
14 smoke?
15 A. I don't know.
16 Q. Did Philip Morris ever advise the public that
17 the fact that carcinogens were found in practically
18 every class of compounds in smoke would prohibit the

19 complete solution of the problem by eliminating one
20 or two classes of compounds?
21 A. Could you repeat that question, please?
22 Q. Sure.
23 Did Philip Morris ever advise the public that
24 the fact that carcinogens were found in practically
25 every class of compound in smoke would prohibit
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1 complete solution of the problem by eliminating one
2 or two classes of compounds?
3 A. Not to my knowledge, sir.
4 Q. Did Philip Morris ever advise the public that
5 the best the public could hope for was for Philip
6 Morris to reduce a particularly bad class; for
7 example, polynuclear hydrocarbons?
8 A. Not to my knowledge, sir.
9 Q. Do you know what a polynuclear hydrocarbon is?
10 A. No, I don't.
11 Q. Do you know if benzene is included in
12 polynuclear hydrocarbons?
13 A. Is it?
14 Q. Do you know if it is?
15 A. Do I? No, I don't, sir.
16 Q. Did Philip Morris ever advise the public that
17 technology did not permit the selective filtration of
18 particulate smoke?
19 A. I don't know, sir. I know we did quite a lot of
20 work on filtration to try to eliminate tar and
21 nicotine, or reduce it, but I don't know if we ever
22 said anything along those lines.
23 Q. Did Philip Morris ever advise the public that
24 flavor substances and carcinogenic substances come
25 from the same classes in many instances?

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1 A. Not to my knowledge, sir.
2 Q. And flavorants in large degree are added to
3 cigarette tobacco; are they not?
4 A. We use flavorants in our cigarettes, yes, that's
5 right. They are lodged -- I believe all of our
6 ingredients are lodged with the Department of Health
7 and Human Services each year.
8 Q. Do you know if the flavorants include
9 carcinogenic compounds?
10 A. No, I don't know, sir.
11 Q. Do you know if the paper in cigarettes includes
12 carcinogenic compounds?
13 A. No, I don't know, sir. I wouldn't have thought
14 so, but I don't know.
15 Q. And the last point here is that many pyrolysis
16 products have multiple precursors in tobacco;
17 correct?
18 A. That's what it says, yes.
19 Q. And the precursor was a precursor for cancer;
20 correct, sir?
21 A. Well I don't know. It doesn't say that.
22 Q. Do you know that -- what pyrolysis is?
23 A. Not really.

24 Q. You don't.
25 A. No.

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1 Q. Never heard of that term?
2 A. I've heard the term, yes.
3 Q. What have you heard it referring to?
4 A. Well I've heard people in our research and
5 development department talk about pyrolysis. I don't
6 want to guess at it.
7 Q. I don't want you to guess, sir.
8 Now can you turn to page 443, and do you see
9 here that it says "THE PRODUCTION OF POLYCYCLIC
10 HYDROCARBONS FROM TOBACCO VERSUS CIGARETTE PAPER?"
11 A. Yes, that's the heading.
12 Q. And polycyclic hydrocarbons were one of the most
13 highly carcinogenic; correct?
14 A. Well I don't recall that. Could you refer me
15 back to that, please?
16 Q. I will in one minute, sir. Can you go back to
17 page 442, just the previous page.
18 A. Uh-huh. Yes, I have that.
19 Q. You see it there then, polynuclear hydrocarbons?
20 Do you see those?
21 A. Polynuclear hydrocarbons, yes.
22 Q. Okay.
23 A. And what was your question?
24 Q. And --
25 A. Poly --

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1 Q. -- you see here that this is the production of
2 polycyclic hydrocarbons from tobacco versus cigarette
3 paper, and I was asking you whether or not polycyclic
4 are not one of the most highly carcinogenic. Or let
5 me put it another way. A particularly bad class.
6 A. Well I don't know. In fact polycyclic is what
7 this says, and polynuclear I think is what this says,
8 and I don't know the difference.
9 Q. You don't know if they're the same or different.
10 A. No, I don't.
11 Q. All right. Well if we assume that they're the
12 same, they would be one of the particularly bad
13 classes; correct?
14 A. Well it's not --
15 MR. BLEAKLEY: Excuse me. Objection, Your
16 Honor, calls for speculation.
17 THE COURT: No, I think it's referring to
18 the document. You may answer.
19 Q. I'm just asking you to assume they're the same,
20 and if they are, they would be a particularly bad
21 class; correct?
22 A. Well I'm a little confused again -- and I'm not
23 trying to be difficult, please believe me -- but one
24 says polynuclear hydrocarbons, the other says
25 polycyclic hydrocarbons. This in the paper here says

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1 that polynuclear hydrocarbons appear to be
2 carcinogenic. I don't know about polycyclic
3 hydrocarbons. That's all I can say.
4 Q. I understand. And I'm not trying to be
5 difficult either.
6 A. All right.
7 Q. I just ask you to assume that the two are the
8 same. If they --
9 A. Well I don't -- I don't know that I can, but the
10 terms are different.
11 Q. Well I understand that, Mr. Bible, but I have a
12 right to ask you to assume that. All right?
13 A. I don't know.
14 Q. Because there are other people that will testify
15 in this case. You understand that. You understand,
16 sir?
17 A. No, I don't -- I-I don't -- didn't understand
18 that you had the right to ask me those things, but if
19 you do, I shall accept that.
20 Q. All right. If you assume that to be true, then
21 that is the particularly bad class; right?
22 A. Well I don't know I can form that conclusion.
23 Q. Fair enough. You -- you just can't form that
24 conclusion; is that right?
25 A. That's right.

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1 Q. Now here we see that polycyclic hydrocarbons are
2 found in both cigarette paper and the tobacco;
3 correct?
4 A. Yes, that's my --
5 I think that's what this says.
6 Q. You didn't know that until you saw this;
7 correct?
8 A. No, I didn't know that, no.
9 Q. And you see down there the conclusion is that
10 tobacco is the main source of polynuclear
11 hydrocarbons in cigarette smoke; correct?
12 A. Yes, I read that. Uh-huh.
13 Q. And if you go on to the next page, sir, you can
14 see that polycyclic hydrocarbons come from many
15 tobacco constituents; correct?
16 A. Yes. That's the heading.
17 Q. And you see the conclusion there, "Removal of
18 any single precursor will not eliminate polycyclic
19 hydrocarbons from smoke." Do you see that?
20 A. Yes, I read that conclusion.
21 Q. Yes. Do you know if this information was ever
22 disclosed by Philip Morris to the public?
23 A. No, I don't know, sir.
24 Q. Has anybody ever told you whether Philip Morris
25 disclosed this type of information to the public?

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1 A. No.
2 This is back in 1961, is it?
3 Q. '63, sir.
4 A. '63. No, I don't have any recollection of

5 anybody telling me that.
6 Q. And if you go to the last page, you see there's
7 a summary, sir?
8 A. Could you give me the number, please?
9 Q. Yes, absolutely. I'm sorry, it was not the
10 last. 446.
11 A. Thank you, yes.
12 Q. Second-to-the-last page.
13 A. Yes. Thanks.
14 Q. Do you see the summary?
15 A. Yes, I do.
16 Q. And it says "A medically acceptable" --
17 And that's underscored; is that right?
18 A. Yes, it is.
19 Q. -- "low-carcinogen cigarette may be possible.
20 Its development would require time, money," and
21 "unfaltering determination." Correct?
22 A. Yes, that's what it says.
23 Q. Now did Philip Morris ever tell the public that
24 it was looking at a medically acceptable
25 low-carcinogen cigarette which may be possible to be
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1 developed?
2 A. I don't know if --
3 Are you talking about that time, then, sir,
4 or --
5 Q. Yes.
6 A. At that time? Then I don't know, at that time.
7 Q. Do you know if they ever said they were
8 attempting to develop a medically acceptable
9 low-carcinogen cigarette?
10 A. I don't know that they've said exactly that. I
11 know over the last year we have developed a product
12 that has, I believe, made a lot of progress in
13 reducing very significantly many of the elements in
14 tobacco smoke that people are concerned about.
15 Q. Is that Project TABLE?
16 A. No, it's not Project TABLE. This is a -- it's a
17 cigarette that in fact would --
18 The tobacco is heated as opposed to burned. And
19 currently it is in consumer home test. And we've
20 spent years trying to develop this product. And at
21 last we have a product we can put into consumer home
22 test, and we're very hopeful about it.
23 Q. And did that start as Project TABLE?
24 A. Not to my knowledge, sir.
25 Q. Have you ever heard the word "Project TABLE?"
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1 A. No, I have not.
2 Q. All right. Now this was back in 1963, 1963,
3 that Dr. Wakeham said a medically acceptable
4 low-carcinogen cigarette may be possible, but its
5 development would require time, money and unfaltering
6 determination; correct?
7 A. Yes, that's what it says.
8 Q. Do you know if a decision was made not to
9 develop that because it might indict the present

10 cigarettes that were on the market?
11 A. Oh, I have no idea. What I do know is that we
12 certainly spent a lot of effort in reducing tar and
13 nicotine and doing our very best to make the best
14 product we can. In fact I believe tar and nicotine
15 levels in cigarettes over the last 40 or 50 years
16 have come down by about half, so we've certainly
17 worked hard at it.

18 Q. We've heard about that, sir. Are you aware of
19 the issue of compensation?

20 A. Yes, I am.

21 Q. Are you aware of when Philip Morris knew about
22 compensation?

23 A. No, I am not.

24 Q. Have you ever looked -- I -- strike that.

25 I take it you've never looked at any documents

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1 regarding that either.

2 A. No, I have not.

3 Q. So you don't know when Philip Morris knew that
4 people were compensating with low tar and nicotine
5 cigarettes; do you?

6 A. No, I don't know. I've asked my scientist about
7 the issue of compensation.

8 Q. Now back in 1963 -- I'm going to ask the
9 question again -- do you know if Philip Morris at
10 that time undertook a project to develop a medically
11 acceptable low-carcinogen cigarette?

12 A. No, I don't know.

13 Q. Do you know what a medically acceptable
14 low-carcinogen cigarette would be?

15 A. Would I know what it would be?

16 Q. Yes.

17 A. It would be pretty hard for me to describe, sir.
18 No, I wouldn't know what it would be.

19 Q. How many carcinogens would be in a medically
20 acceptable low-carcinogen cigarette?

21 A. I don't know.

22 Q. Have you ever asked anybody that?

23 A. No, I have not.

24 Q. Can you direct your attention, sir, to Exhibit
25 11604. Now this is a memorandum to Mr. Cullman from

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1 Dr. Wakeham; correct?

2 A. Yes, it is.

3 Q. And this is October 24th, 1963; correct?

4 A. Yes.

5 Q. Have you seen this document before?

6 A. No, I have not seen this document.

7 Q. Now was Mr. Cullman --

8 What was his position in the company, Hugh
9 Cullman?

10 A. I don't know what his position was then.

11 Q. Do you know if he was ever president of the
12 company?

13 A. I don't think he ever was. When I joined the
14 company he was president of Philip Morris

15 International.
16 Q. And did you ever hold the position of Philip
17 Morris International president?
18 A. Did I?
19 Q. Yes.
20 A. Yes.
21 Q. Now this is a technical forecast; correct?
22 A. Well I --
23 Yes. That's what the subject is, yes, you're
24 right.
25 Q. And you see up in the upper left-hand corner
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1 it's personal and confidential?
2 A. Yes.
3 Q. And Dr. Wakeham here is reporting to Mr. Cullman
4 pursuant to Mr. Cullman's request for a technical
5 forecast outlining the areas where the cigarette
6 industry might be most subject to criticism; correct?
7 A. Well that's the beginning of the letter, yes.
8 Q. And he wanted to -- suggestions as to how those
9 elements in smoke which might be most accused by
10 either the medical profession or exploited by our
11 competitors; is that right?
12 A. Do you mind if I just read it?
13 Q. Sure. Go right ahead, sir.
14 A. Yes.
15 Q. And in this memorandum, Dr. Wakeham is providing
16 Mr. Cullman with the considered judgment of the
17 research and development department; correct?
18 A. Well I'll read the --
19 MR. BLEAKLEY: Objection. Objection, Your
20 Honor, the witness has just seen this document. If
21 he's going to ask him to summarize it, at the very
22 least the witness should be allowed to read the
23 entire document.
24 THE COURT: Was this document identified?
25 MR. CIRESI: Yes, Your Honor.
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1 THE COURT: All right. Do you -- do you --
2 Would you like to read the entire document?
3 THE WITNESS: Well if I'm going to be asked
4 questions about it, Your Honor, I'd like to.
5 THE COURT: Okay. Well that's why we give
6 notice to the witnesses. We'll sit and wait while
7 you read the entire document.
8 THE WITNESS: Well thank you.
9 MR. CIRESI: Might I suggest, Your Honor,
10 if I may --
11 BY MR. CIRESI:
12 Q. Mr. Bible, just to save time, as we go through
13 it, if you need to take a look at another part of it,
14 please tell me.
15 A. All right.
16 Q. Because I want you to have an opportunity to
17 look at all of it --
18 A. Thank you.
19 Q. -- if that's what you need to do, but I'm going

20 to try to go through it bit by bit so we'll put it in
21 context. All right?
22 A. Thank you.
23 Q. I'm just dealing with the first paragraph there.
24 And does Dr. Wakeham say he will present here our
25 considered judgment in this matter?

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1 A. Yes.
2 Q. Now Dr. Wakeham was the head of research and
3 development at Philip Morris; correct?
4 A. I believe so, but I don't know at what time he
5 was.
6 Q. All right. Now Dr. Wakeham here refers to the
7 health critics; correct?
8 A. Yes.
9 Q. And there are three main lines of attack;
10 correct?
11 A. Yes.
12 Q. Okay. Now do you believe it appropriate for
13 Philip Morris at any point in time to consider public
14 health officials to be health critics?
15 A. No, I don't. I don't know if that's who he's
16 referring to, but --
17 That probably is who he is referring to, and I
18 don't think that's appropriate. But I don't think he
19 meant it in a mean fashion.
20 Q. No more than you meant it in a mean fashion in
21 your 1994 report when you talked about how you were
22 going to defend the company and what you were going
23 to do with regard to defending the company; right?
24 You didn't mean that in a mean fashion.
25 A. Of course I didn't, sir.

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5902

1 Q. No. And you know what I'm referring to.
2 A. You're referring to my letter to shareholders in
3 the annual report.
4 Q. Yes.
5 A. Yes.
6 Q. You didn't mean that in a mean fashion; did you?
7 A. No, I don't believe I did mean it in a mean
8 fashion.
9 Q. When you were talking about the FDA, you didn't
10 mean that in a mean fashion; did you?
11 A. No.
12 Q. When you said you were going on the offensive to
13 vindicate your rights and to make it clear that the
14 current notions of political correctness cannot be
15 used to justify unlawful conduct that abridges those
16 rights, you didn't mean that in a mean fashion; did
17 you?
18 A. No, I didn't think I was being mean. I was
19 being objective.
20 Q. And when you said that in the legal area we are
21 committing all the resources necessary to defend the
22 company from new forms of litigation, making sure we
23 have better firepower than our foes no matter how
24 formidable, you didn't mean that in a mean fashion?

25 A. No, I certainly meant it in the most objective
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1 fashion I could muster, yes.

2 Q. Yes. And you meant it on a going-forward basis;
3 didn't you? You were looking forward, as you said
4 yesterday; weren't you? You weren't talking about
5 the past.

6 A. Sir, I'm looking forward all the time now, as I
7 expressed yesterday.

8 Q. And when you made that comment yesterday, Mr.
9 Bible -- or in this letter in 1995, February 24th,
10 you were looking forward; weren't you?

11 A. Yes, I expressed that yesterday, and I still am,
12 and I'm working very hard to resolve the issues
13 around this industry and company.

14 Q. And you said we're going to have better
15 firepower than our foes, no matter how formidable;
16 correct, sir?

17 A. Absolutely.

18 Q. And you said in the new class action suits and
19 state Medicaid, we believe the law continues to be on
20 our side. Although these cases pose difficult
21 challenges, we should ultimately prevail in them,
22 just as we have been successful in other types of
23 cases over the last 40 years. Correct?

24 A. Yes.

25 Q. And you were talking about going forward;

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5904

1 weren't you, sir?

2 A. Yes, I was.

3 Q. You were looking forward at that time; weren't
4 you, sir?

5 A. Yes, I was.

6 Q. And --

7 A. And I -- and I still am.

8 Q. And you said it's important to note here that
9 the tobacco company has never lost or paid to settle
10 a case; correct?

11 A. Well I don't have it in front of me, but that
12 sounds familiar.

13 Q. And when you said that, you were talking about
14 going forward; weren't you?

15 A. Well certainly. Couldn't be going backwards,
16 sir.

17 Q. And you were -- I agree with you. And you were
18 going to fight those cases with all the resources
19 that you could bring to bear; isn't that right, sir?

20 A. Yes.

21 Q. And in fact, you called a bunch of analysts in
22 and you said we shall fight and fight and fight these
23 issues; didn't you?

24 A. I don't recall calling a bunch of analysts in.

25 Q. You remember the time you had a meeting in the

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1 Grand Hyatt ballroom in New York?
2 A. Yes, I do.
3 Q. And you had the Magnificent Seven on a 12-foot
4 screen, do you remember that?
5 A. No, I don't remember that.
6 But let me correct what you described it as.
7 That was an invitation to Philip Morris to attend an
8 investment analysts' seminar where many companies
9 presented their companies to investment analysts.
10 Q. And you --
11 A. So I --
12 Q. And you presented yours.
13 MR. BLEAKLEY: Objection, Your Honor, the
14 witness was in the middle of his answer.
15 THE COURT: Allow him to finish his answer,
16 please.
17 MR. CIRESI: I'm sorry, didn't --
18 A. And we were one of many companies and we
19 presented our company to those analysts at that time.
20 Q. And when you presented your company, you said
21 you were going to fight, fight and fight these
22 issues; correct?
23 A. Well I don't know if I said that or not, sir,
24 but it sounds familiar.
25 Q. Yes. And there was a 12-foot screen and you put
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1 up the Magnificent Seven commercial and blasted it
2 out over the whole audience; didn't you?
3 A. I don't recall that, sir.
4 Q. Have no recollection of that, sir?
5 A. No, I don't.
6 Q. You don't deny that took place; do you?
7 A. I -- I don't recall it, sir.
8 MR. BLEAKLEY: Objection, Your Honor, the
9 witness doesn't recall it. Whether he denies it is
10 not relevant.
11 THE COURT: No, it's relevant.
12 Q. Do you deny it, sir?
13 A. No, I neither affirm nor deny it. I don't
14 remember.
15 Q. Okay. Do you remember there was an article
16 about it in the Wall Street Journal?
17 A. No. There are many newspaper articles in the
18 Wall Street Journal.
19 Q. I'll grant you that, sir.
20 MR. CIRESI: May I approach, Your Honor?
21 (Document handed to the witness.)
22 BY MR. CIRESI:
23 Q. I just want to refresh your recollection of
24 this, sir; I'm not asking to enter it into evidence.
25 It's a Wall Street Journal -- copy of the Wall Street
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5907

1 Journal article dated March 30th, 1995. Do you see
2 that?
3 A. Yes, I do.
4 Q. And it relates to this meeting that took place
5 in October of 1995 -- or excuse me, in February of

6 1995?
7 A. Well it's dated Monday, October 30, 1995. I
8 don't see February.
9 Q. Wasn't it at the end of February you had this
10 meeting?
11 A. Oh, I have no idea.
12 Q. Well let me see if I can refresh your
13 recollection. Do you recall after the meeting that
14 the stock value of the company went up two billion
15 dollars and it was called the two-billion-dollar day?
16 A. No, I don't remember that either.
17 Q. Maybe --
18 A. It's certainly possible, but I don't remember
19 it.
20 Q. Why don't you take a look at the second page,
21 and if you look at the left-hand column, sir, third
22 paragraph from the bottom, do you see that you're
23 quoted there, "We shall fight, fight and fight these
24 issues?"
25 A. Well yes, I -- I recall that. Yes, I see that.
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1 Q. And this was at the Grand Hyatt ballroom?
2 A. That's what it says, yes.
3 Q. And it said, "I can assure you we will fight
4 with all the resources at our command because I am
5 convinced we are right?"
6 A. Yes, it says that.
7 Q. And one of the things you personally think
8 you're right about is that smoking doesn't cause any
9 disease; is that correct?
10 A. No, I have said that I think cigarette smoking
11 is a significant risk factor in many diseases.
12 Q. Does that mean it causes disease? You just said
13 "no" to my answer.
14 A. I've said that it is a risk factor and a
15 significant risk factor --
16 Q. Does that mean --
17 A. -- in many diseases.
18 Q. -- it causes disease?
19 A. I don't know, sir.
20 Q. Well was one of the things you personally think
21 you're right about is that smoking doesn't cause any
22 disease?
23 A. I don't know. I've said that publicly.
24 Q. So you didn't know if you were right about that
25 or not; is that right?

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5909

1 A. I'm not sure what you're referring to. Could
2 you --
3 Q. Whether smoking causes disease.
4 A. Are you asking me that question?
5 Q. Yes. You don't know if you're right or not; is
6 that right?
7 A. I don't know if I'm right. It might cause
8 disease. I don't know.
9 Q. All right. Now at this analysts meeting, do you
10 see there where the playing of the Magnificent Seven

11 is referenced?
12 A. Yes, I do see that.
13 Q. Does that refresh your recollection, sir?
14 A. Well it doesn't. But I don't deny that's what
15 it says, and I -- I expect we did show it.
16 Q. And in fact didn't you have some part in the
17 planning of that? You wanted to make a big show with
18 the analysts; didn't you?
19 A. I'm quite involved in those sorts of
20 presentations, yes, I am, and I'm very proud of our
21 company and I like to put forward the best foot that
22 we can, and I make sure that the operating companies
23 present themselves as best they can when we make
24 presentations to analysts. Yes, you're right.
25 Q. You actually put your management team through
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5910

1 the paces and graded them; didn't you?
2 A. I don't recall that.
3 Q. Well, can you look to the paragraph right above
4 that. "Executives who didn't pump up the volume got
5 a drubbing from the new boss." That's you; isn't it?
6 A. Well I was the new boss, but they certainly
7 didn't getting a drubbing from the new boss, I can
8 promise you that.
9 Q. Well in February of 1995, did you assemble your
10 top executives in New York for a run-through of their
11 presentation of Philip Morris's aggressive new face
12 to the Wall Street and the media?
13 A. Well I -- I -- I don't remember, but it's highly
14 likely I would have because I take a big interest in
15 those. And I don't know that I would have been
16 defining it as Philip Morris's aggressive new face.
17 I --
18 Q. Well you know that you'd been defined as the
19 aggressive new face back in 1994; weren't you?
20 A. I don't know that.
21 Q. You never read that?
22 A. Well I may have, but I don't remember it if I
23 was. I'm often called many things.
24 Q. I understand, sir.
25 Let me ask you this: Having in mind now that
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1 you are that involved and that you get involved with
2 your executives, does this refresh your recollection
3 that you had them in for a run-through of their
4 presentation?
5 A. Well I don't remember that, but it's highly
6 likely that I did. I'm not denying that I did, sir.
7 Q. And it's reported that you graded the executives
8 after each one spoke and you let loose some withering
9 criticism and graded all of them in front of
10 everybody else. Is that what you did?
11 A. I would say that's absolutely wrong.
12 Q. You didn't do that; is that right?
13 A. I would never do that.
14 Q. You wouldn't.
15 A. No.

16 Q. Did you have your publicist of this
17 68-billion-dollar company call the Wall Street
18 Journal or write to them and say that's flat-out
19 false, I never did that?
20 A. No, I didn't. I could spend the rest of my
21 life, I think, if I wanted to try to correct
22 everything that was said in the newspapers about me
23 and the company.
24 Q. And Murray Bring was the company's top legal
25 strategist; was he not?

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1 A. Murray Bring would have been the chief general
2 counsel of the company.
3 Q. And he's quoted here; isn't he?
4 A. Could you direct me to that, please?
5 Q. Same paragraph.
6 A. Uh-huh.
7 Q. And it's --
8 And he said, "The message was we could do a hell
9 of a lot better." Correct?
10 A. That's what it says.
11 Q. And is that the message you gave all those
12 executives after you graded them?
13 A. Well I might well have said you could do better.
14 I could believe I would say that.
15 Q. You can't believe, though, that you would have
16 said we can do a hell of a lot better; is that right?
17 A. Well I'm -- I may have. I doubt it though, I --
18 just as I doubt I would have let loose withering
19 criticism. That's not my style.
20 Q. But you don't deny that the words in the 1994
21 annual report about going on the offensive and
22 defending your company are your words; do you, sir?
23 A. Well could you direct me to that again, please,
24 sir?
25 Q. Absolutely. Exhibit 17624.

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1 MR. BLEAKLEY: May we have a page number,
2 please?
3 A. Yes, I have it. That's the 19 -- hmm.
4 THE COURT: Counsel, can you give him the
5 page number, please.
6 MR. CIRESI: 1994 annual report.
7 THE WITNESS: Yes, right.
8 MR. CIRESI: And it's the -- I don't have
9 actual pages --
10 Well it's page four, lower left-hand corner.
11 Q. It's the one we've been looking at, sir, your --
12 your letter to the shareholders.
13 A. Oh, right. Thank you. Got it.
14 So could you direct me to the --
15 Q. Certainly. "Defending our Company."
16 A. Uh-huh.
17 Q. Right at the bottom where "We are going on the
18 offensive to vindicate our rights." Do you see that?
19 A. Yes.
20 Q. Okay. And this is the letter that you wrote to

21 the shareholders on February 24th, 1995.
22 A. That's correct, yes.
23 Q. There's no dispute about that; is there, sir?
24 A. No, I'm not disputing that. I just wanted to
25 see that's indeed what it said.

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1 Q. And did you write the letter or was it written
2 for you?
3 A. It would have been a combination of people who
4 help draft these letters and myself.
5 Q. Does that mean that somebody wrote it for you
6 and then you edited it?
7 A. No, it would have been both. We would have
8 participated together, probably.
9 Q. And these are your words and you adopt them as
10 such; don't you?
11 A. These are my words I would have thought, yes.
12 Q. And they were intended to be the words on behalf
13 of the corporation; correct, sir?
14 A. Yes, that is right, to -- to the stockholders.
15 Q. And in this letter, this is the one where you
16 said that our one all-consuming ambition was to
17 create wealth for the owners; correct?
18 A. Well I --
19 Could you point me to that, please, sir?
20 Q. Certainly.
21 A. I don't doubt saying that.
22 Q. Page two. Just go back two pages. "Growing our
23 Business." Right at the very top.
24 A. Uh-huh.
25 Q. "Our one all-consuming ambition" --

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5915

1 A. Right. Yes, I remember that yesterday.
2 Q. Okay. Now --
3 And this is in 1995 when you were saying that;
4 isn't that right?
5 A. Yes.
6 Q. Okay. Right after you took over, about six --
7 six or seven months after.
8 A. Well six months after I took over as CEO and a
9 month after I became chairman, yes.
10 Q. And so now if we can't just go back 34
11 years -- or excuse me, 32 years, back to document
12 11604 --
13 And Mr. Bible, before you do that, let -- let me
14 ask you this: You understand that the purpose of
15 this lawsuit is to look at Philip Morris's conduct
16 over a long period of time. Do you understand that?
17 MR. BLEAKLEY: Objection, Your Honor,
18 that's an inappropriate -- improper question. The
19 purpose of this lawsuit is not a proper question to
20 ask this witness.
21 THE COURT: Sustained.
22 Q. Do you know if in this lawsuit we're looking at
23 Philip Morris's conduct over a long period of time?
24 A. Well I got that impression from yesterday's
25 interrogation.

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1 Q. And in order to look at its conduct over that
2 period of time, we must look at what they knew, when
3 they knew it, and what they did with that
4 information. You would agree with that?

5 A. Well --

6 MR. BLEAKLEY: Objection, Your Honor,
7 whether they must or not is also a legal question and
8 not within the competence of this witness.

9 THE COURT: No, I think you can answer
10 that.

11 A. Well I would describe that as being your
12 prerogative, if that's how you feel it should be
13 done, certainly.

14 Q. Well you would feel that if someone was going to
15 look at someone's conduct over a period of time, they
16 would look at what they knew, when they knew it, and
17 what they did with the information.

18 A. Well that doesn't seem unreasonable to me, no.

19 Q. Okay. Seems like a reasonable way to approach
20 it; doesn't it?

21 A. Well it's one way to approach it, yes. Not
22 unreasonable, as I said.

23 Q. Now let's look back 32 years, before your words
24 in the annual report and what you said at that
25 analysts' meeting, to see what was being said by

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1 Philip Morris then. All right?

2 A. Uh-huh.

3 Q. Can you take a look, then, back to Exhibit
4 11604, the memo from Dr. Wakeham to Mr. Hugh Cullman.

5 Now in 1994 and 1995, one of the objects of your
6 attack or offensive was the FDA; correct?

7 A. In nineteen ninety --

8 Q. Five.

9 A. -- five? When I say -- you say "attack," I
10 would define it differently. We were defending
11 ourselves against a number of matters at that time.
12 The FDA had proposed regulation. I think there had
13 been a lot of television coverage where we'd been
14 maligned by a television article. I believe there
15 were congressional hearings at the time. So there
16 was -- and there were mounting legal actions against
17 the company. So there were many things that were
18 developing around the company. That's why I was
19 consumed by all this activity and wanted to find some
20 solution going forward. So my sense, if I were asked
21 to define it, would be how can I defend the company
22 as best as I can and find a solution to these growing
23 issues.

24 Q. Sir, my question was pretty simple: One of the
25 objects of your offensive was the FDA; correct?

5918

1 A. Which offensive, sir?

2 Q. The offensive to defend your company.
3 A. Well I would say it was the defense of my
4 company, and I wouldn't describe it as an offensive,
5 sir.
6 Q. I thought you said, "We are going on the
7 offensive to vindicate our rights." Those are your
8 words, not mine.
9 A. Well if they were my words, the idea there was
10 that we were going to go on the offensive to defend
11 the company, sir.
12 Q. All right. Well I'll do it that way.
13 One of the objects of your offensive to defend
14 the company was the FDA; correct?
15 A. Yes, that's correct. We did not believe the FDA
16 had jurisdiction over the tobacco industry. That's
17 Congress's right.
18 Q. And you felt that because you didn't want them
19 to regulate nicotine.
20 A. No, I don't think that would be a fair
21 characterization of it.
22 Q. Well we'll get to that a little bit later and
23 take a look at those documents.
24 Directing your attention to Exhibit 11604, here
25 Dr. Wakeham's talking about the health critics who
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1 may follow three main lines of attack; right?
2 A. Yes.
3 Q. "Chemical carcinogenesis of the lungs by smoke
4 constituents;" correct?
5 A. Yes.
6 Q. Now we know that Philip Morris as of this date
7 had already identified smoke constituents that were
8 carcinogenic; correct?
9 A. Well yes, that's -- I think so.
10 Q. And the second attack was "Irritation from smoke
11 components leading to chronic bronchitis and
12 emphysema;" correct?
13 A. Yes, that's what it says.
14 Q. And then the third was "Cardiovascular effects
15 due mainly to nicotine in the smoke." Correct?
16 A. Yes, that's what it says.
17 Q. Now I understand you have not had the
18 opportunity to read this entire document yet, but if
19 you take a look at it -- and please take time to look
20 at it -- would you agree with me that in the next
21 part of the memorandum under number one, Dr. Wakeham
22 reports about the fact that rather than there being a
23 super carcinogenic substance, the experts were now
24 looking to the cocarcinogen issue in which there were
25 several types of minor carcinogenic compounds in
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1 smoke that reinforce one another?
2 A. Well I didn't get that, but if I'm --
3 I think you jumped around a bit.
4 Q. Well just please -- please read the next two
5 paragraphs -- and they're right up there; anybody can
6 read them -- and see if that isn't a fair summary of

7 what he reports there.
8 MR. BLEAKLEY: Objection to Mr. Ciresi's
9 commentary on the document, Your Honor.
10 THE COURT: Just ask a question, please.
11 Q. Please take a look at those two paragraphs and
12 see if that isn't a fair summary of those two
13 paragraphs.
14 A. Well if I read it, I shall then ask you if you
15 could give your summary again, please.
16 Q. I will.
17 A. Thank you.
18 I find it very difficult to summarize. I'd like
19 to hear yours.
20 Q. My summary was that rather than there being one
21 super carcinogen, people were now looking to
22 cocarcinogens which, combined together, were
23 sufficient to account for cancer.
24 A. Well I think what it says is, as I read this,
25 although no one compound is present in sufficient

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1 quantities to account for the effect, the combined
2 activity of all is enough to do the trick, and I
3 don't see reference to a super carcinogen.
4 Q. All right. Well that's what I meant by one
5 carcinogen itself. And in fact, Dr. Wakeham at -- in
6 this document, the next page, reports that the --
7 what he refers to as the medical attack on cigarettes
8 will be based on the cocarcinogen idea, and that with
9 hundreds of carbon -- hundreds of compounds in smoke,
10 this hypothesis will be hard to contest. Do you see
11 that?
12 A. Yes, that's what it says.
13 Q. And by the notion that the hundreds of compounds
14 in smoke that may be carcinogenic, that's consistent
15 with the previous documents we saw of Philip Morris
16 which identified many carcinogens in smoke; correct?
17 A. Could you repeat the question? You mentioned
18 hundreds of --
19 Q. It's talking about hundreds of compounds.
20 That's consistent with the previous documents of
21 Philip Morris that we just reviewed this morning --
22 A. Yes.
23 Q. -- that showed carcinogens in smoke; right?
24 A. Yes, that's right.
25 Q. And Philip Morris had knowledge of that for a

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1 number of years prior to 1963; correct?
2 A. That there were carcinogens in smoke?
3 Q. Yes. And many carcinogens and hundreds of
4 compounds; correct?
5 A. Prior -- prior to when, sir?
6 Q. Prior to October 24th, 1963.
7 A. Well I don't know. What was the date of the
8 letter we looked at earlier?
9 Q. Well we saw one in 1961, for example. That's
10 two years before; correct?
11 A. The one you just referred to, I'm sorry.

12 Q. 1961, sir.
13 A. Thank you.
14 Q. Two years before; correct?
15 A. Yes.
16 Q. Is that --
17 A. Two years before, yes.
18 Q. All right. Now Dr. Wakeham then goes on to talk
19 about the polynuclear hydrocarbons. Do you recall
20 seeing those in that previous memo?
21 A. Yes, I do.
22 Q. And he talks about nitrosamines. Do you see
23 that?
24 A. Yes.
25 Q. And you know nitrosamines are highly

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1 carcinogenic; don't you?
2 A. I don't know if they're highly carcinogenic.
3 I've heard that they are carcinogenic. I believe
4 there is some debate over it, but I believe they're
5 carcinogenic from what I hear in many --
6 Q. And Dr. Wakeham reports here that the
7 lower nitrosamines are highly carcinogenic in the
8 bioassay tests; correct?
9 A. I can't find that.
10 Q. Right under "Nitrosamines," the very last
11 sentence.
12 A. The very last sentence says, "It is apparent
13 that interest in nitrosamines is increasing." Is
14 that the one you're referring to?
15 Q. I'm starting the first paragraph. Do you see it
16 there, sir?
17 A. "The lower nitrosamines are highly carcinogenic
18 in the bioassay tests," is that what you cite?
19 Q. Yes.
20 A. Yes.
21 Q. And Dr. Wakeham reports that these substances
22 have been under investigation since early in the
23 year, and that indications of their presence,
24 particularly the higher members, have been found;
25 correct?

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5924

1 A. We have found indications, yes, it says that.
2 Q. And he says the lower members have not been
3 found, but the elements for their formation are
4 present in smoke; correct?
5 A. That's what it says, yes.
6 Q. Then he goes on to talk about carbamates or
7 urethanes, which are highly carcinogenic,
8 particularly to lung tissue; correct?
9 A. That's what it says, yes.
10 Q. And do you know if that was one of the compounds
11 that we saw in the earlier memo in 1961?
12 A. Do I remember? I don't remember that, no.
13 Q. And he talks about terpenes; correct?
14 A. Talks about which, sir?
15 Q. Yes. Terpenes, t-e-r-p-e-n-e-s. Do you see
16 that?

17 A. Oh, yes. The next paragraph.
18 Q. Yes.
19 A. Thank you.
20 Q. And he references there that some members of
21 that family are present in smoke; correct?
22 A. Yes, he does.
23 Q. And if you go on to the next page, sir, he deals
24 with bronchitis and emphysema; correct?
25 A. (Coughing) Excuse me.

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1 Yes.
2 Q. And he talks about the fact that these are
3 serious diseases involving millions of people;
4 correct?
5 A. Yes. That is said, yes.
6 Q. And that emphysema is often fatal either
7 directly or through other respiratory complications;
8 correct, sir?
9 A. It says that, yes.
10 Q. And he stated that a number of experts have
11 predicted that the cigarette industry ultimately may
12 be in greater trouble in this area than the lung
13 cancer field; correct?
14 A. That -- that's what it says, yes.
15 Q. And do you know how many cases of chronic
16 obstructive pulmonary disease, including bronchitis
17 and emphysema, have been reported extensively in the
18 medical literature to be caused by cigarette smoking?
19 A. No, I don't.
20 Q. And he talks also about other types of compounds
21 that are in the cigarette that could cause irritation
22 which would lead to bronchitis and emphysema; doesn't
23 he?
24 A. Where does it say that, please?
25 Q. "As you know, we have investigated this subject

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1 in some depth and have made good progress in
2 developing improved products along this line.
3 Irritating effects are probably due to a variety of
4 substances including ammonia, volatile acids,
5 aldehydes, ketones, amines and phenols." Do you see
6 that?
7 A. Yes, I do.
8 Q. And all of those are present in cigarette smoke;
9 aren't they, sir?
10 A. Well I don't know, sir.
11 Q. All right. Do you know if Philip Morris
12 ammoniates its cigarettes?
13 A. I know that Philip Morris uses ammonia compounds
14 in cigarettes, yes.
15 Q. You've testified about that in front of
16 Congress; haven't you, sir?
17 A. I did, yes.
18 Q. And it also talks here about cardiovascular
19 effects; doesn't it?
20 A. Yes, it does.
21 Q. And it talks about nicotine in that regard;

22 doesn't it?
23 A. Yes, it does.
24 Q. And it says, "If forced to, we could produce a
25 fairly tasty low nicotine product." Correct?
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1 A. It says that, yes.
2 Q. This was in 1963; correct, sir?
3 A. Yes.
4 Q. Now in 1963 Philip Morris didn't feel compelled
5 to produce a fairly tasty low nicotine product; did
6 it?
7 A. Well I don't know.
8 Q. Okay. It didn't produce one at that time; did
9 it?
10 A. Well I don't know.
11 Q. Now Philip Morris also had knowledge of whether
12 or not smoking caused pregnant women to have smaller
13 children; correct?
14 A. Could you repeat the question, please?
15 MR. CIRESI: Yes. Would you read the
16 question back, please.
17 (Record read by the court reporter.)
18 A. I have no knowledge of that, sir.
19 Q. Can you direct your attention to Exhibit 10270.
20 A. Yes, I have it.
21 Q. This is a memorandum to Dr. Wakeham from Dr.
22 Fagan dated January 3rd, 1969?
23 A. Yes.

24 MR. CIRESI: We'd offer it, Your Honor.
25 MR. BLEAKLEY: No objection.

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1 THE COURT: Court will receive 10270.
2 BY MR. CIRESI:
3 Q. This is called "Smoking in Pregnancy: A
4 Prospective Study Done in Britain;" correct?
5 A. Yes.
6 Q. This was reported in the British Journal;
7 correct?
8 A. It appears to be, yes.
9 Q. Now you'll see that in the first two paragraphs,
10 sir, the methodology of the study is detailed. Do
11 you see that?
12 A. Well I'll need to read it, if -- if I may.
13 Q. Yes.
14 A. Thank you.
15 Yes, that's right.
16 Q. Then starting in paragraph three, an analysis of
17 the findings is provided; correct?
18 A. Yes. It says "Analysis of results shows the
19 following."
20 Q. Okay. And one was that mothers who smoke had a
21 lower blood pressure than mothers who didn't smoke;
22 correct?
23 A. That's what it says, yes.
24 Q. And mothers who smoke had a higher percentage of
25 unsuccessful pregnancies, abortions, stillbirth, and

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- 1 neonatal deaths taken together?
2 A. That's what it says, yes.
3 Q. Did Philip Morris warn anybody of those
4 consequences in 1969?
5 A. Not to my knowledge, sir. I think there's a
6 health warning on the cigarette packs that were
7 mandated by Congress.
8 Q. And when was that, sir?
9 A. Well I think it was 1969.
10 Q. For children?
11 A. I'm not sure.
12 Q. Pregnant women?
13 A. I'm not sure when the pregnant women health
14 warning was introduced.
15 Q. Philip Morris, for example, never took out ads
16 in the Wall Street Journal, New York Times,
17 Minneapolis Tribune, St. Paul Pioneer Press, across
18 the nation, advising consumers of this; did they?
19 A. Not to my knowledge, no.
20 Q. They've never done that to this day; have they?
21 A. Not to my knowledge.
22 Q. And in subparagraph three -- or c) of paragraph
23 three, do you see that it is reported by Dr. Fagan to
24 Dr. Wakeham that the study took into consideration
25 many factors such as maternal age, paternal age,

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- 1 socioeconomic status, educational level, maternal
2 weight -- height, parity, et cetera, the non-smoking
3 mother has a heavier baby than the mother who smokes,
4 do you see that?
5 A. Yes, I see that.
6 Q. Now all of those factors, do you know if they're
7 called confounding variables in an epidemiological
8 study?
9 A. I don't know. I would say that they are
10 certainly variables.
11 Q. And starting at the bottom on e), it's reported
12 as follows by Dr. Fagan to Dr. Wakeham, "Babies born
13 to smoking mothers grow faster and put on weight
14 faster than babies born to non-smoking mothers. By
15 the end of the first year, the babies seem to be
16 similar in weight and growth. The lower birth weight
17 of babies born to smoking mothers is attributable to
18 the toxic effects of smoke, particularly the carbon
19 monoxide." Do you see that?
20 A. Yes, that's what it says.
21 Q. And then if you go down to paragraph five --
22 A. Uh-huh.
23 Q. -- there is reported by Dr. Fagan to Dr. Wakeham
24 studies which looked at the effects of prematurity on
25 child development. Do you see that?

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- 1 A. Yes, I do.
2 Q. And those studies pointed to the effects of

3 cigarette smoking in the production of premature
4 infants as defined by birth weight; correct?
5 A. Yes, that's what it says.
6 Q. And these reporters attributed that to the
7 effect of the lower nourishment of the fetus through
8 one of two mechanisms; correct?
9 A. That's what it says, yes.
10 Q. One was the effect of nicotine in constricting
11 the uterine blood vessels and hence cutting down on
12 the blood supply available to the fetus; correct?
13 A. Yes.
14 Q. And the other was to the effect of smoking in
15 reducing the appetite of mother -- of the mother, and
16 hence the supply of nutrients, particularly proteins,
17 to the fetus; correct?
18 A. Yes, that's what it says.
19 Q. And it was found that the premature babies are
20 more likely in later life to have physiological and
21 psychological problems; correct?
22 A. That's what it says here.
23 Q. And those physiological problems and
24 psychological problems could include depression,
25 mental disease; couldn't they?

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1 A. Where does it say that, sir?
2 Q. Could they? I'm just asking you.
3 A. Oh. Well I don't know.
4 Q. Could run the whole gamut of physical and mental
5 problems; couldn't it, sir?
6 A. I don't --
7 Q. As far as you know.
8 A. Well I don't know what they mean when they say
9 that, sir.
10 Q. And do you see in the last paragraph, "All of
11 the investigations of this type that smoking mothers
12 have babies of lower birth weight than non-smoking
13 mothers, and that these lower weight babies are more
14 likely to experience problems later in life. Whether
15 the mechanism is that of a 'slight poison' as
16 suggested by Russell or whether the mechanism is
17 through the reduced appetite of the mother is yet to
18 be decided." Do you see that?
19 A. Yes, I do see that.
20 Q. Now was any of this ever reported by Philip
21 Morris to the public, to the consumers?
22 A. I don't know, sir.
23 Q. Since you have been CEO, you've never ordered
24 that told to the consumers by taking out ads; have
25 you?

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1 A. No, I have not by taking out ads. I was once
2 asked a question in an annual general meeting as to
3 whether pregnant mothers should smoke, and I said I
4 thought it would be sensible if they didn't smoke.
5 Q. You did.
6 A. Yes, I did.
7 Q. Well then why didn't you tell your PR

8 department, "Let's get this out. Let's use part of
9 this 6.9 billion in cash flow and take out ads across
10 the country to get the word out to the consumers,"
11 why didn't you do that?

12 A. Sir, there is a health warning on cigarette
13 packs today that warn pregnant women not to smoke.

14 Q. But why didn't the company do it?

15 A. You know, I wonder if anybody in America
16 believes cigarette companies when we say something
17 like that, sir.

18 Q. Sir, yesterday you said that you would -- there
19 would be a bigger impact if the company itself
20 admitted these things.

21 A. Well I've now concluded that if we were to say
22 something like that publicly, people wouldn't believe
23 us.

24 Q. Do you think maybe, just maybe, Mr. Bible, the
25 reason they wouldn't believe you is that you folks

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1 stand alone against the entire world medical
2 community and say smoking doesn't cause disease? Do
3 you think that's possible?

4 A. I don't know, sir.

5 Q. You have no idea.

6 A. It might be. It might be.

7 Q. It's probable; isn't it, sir?

8 A. It's possible, sir.

9 Q. If people don't tell the truth, then when they
10 try to tell the truth, somebody looks a little
11 askance at it; don't they?

12 MR. BLEAKLEY: This is becoming
13 argumentative.

14 THE COURT: It's becoming argumentative.

15 MR. CIRESI: I'll withdraw that question,
16 Your Honor.

17 Q. Can you direct your attention, sir --

18 THE COURT: Counsel. Maybe we should take
19 a short recess.

20 THE CLERK: Court stands in recess.

21 (Recess taken.)
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1 (In-chambers conference as follows:)
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1 (In-chambers discussion concluded.)
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1 THE CLERK: All rise. Court is again in
2 session.
3 (Jury enters the courtroom.)
4 THE CLERK: Please be seated.
5 THE COURT: Counsel.
6 MR. CIRESI: Thank you, Your Honor.
7 BY MR. CIRESI:
8 Q. Mr. Bible, can you direct your attention to
9 volume one, Exhibit 10270. You'll recall that's the
10 document we just discussed; correct?
11 A. Yes.
12 Q. And that was dated January 3rd, 1969; correct?
13 A. Yes. Yes, that's correct.
14 Q. And it was to Dr. Wakeham by Dr. Fagan; correct?
15 A. Or Mr. Fagan. I don't know if he was a doctor
16 or not.
17 Q. Can you direct your attention now to the exhibit
18 directly before that, sir, which will be Exhibit
19 10269.
20 A. Yes.
21 Q. And do you see that's a document from Dr.
22 Wakeham to Mr. Goldsmith?
23 A. Yes.
24 Q. And it's January 10th, 1969, or seven days
25 later. Do you see that?

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1 A. Yes, I do see that.
2 MR. CIRESI: Your Honor, we would offer
3 Exhibit 10269.
4 MR. BLEAKLEY: No objection.
5 THE COURT: Court will receive 10269.
6 BY MR. CIRESI:
7 Q. Now Mr. Goldsmith was the president of the
8 company?

9 A. At that time do you mean?
10 Q. Yes.
11 A. I don't know if he was president at that time.
12 He was president at some time, but I think it may
13 have been later than that.
14 Q. He also was vice chairman; correct?
15 A. I think he was.
16 Q. Now here he is sending -- or receiving a memo
17 from Dr. Wakeham regarding smoking and baby weight;
18 correct?
19 A. Yes, that's right.
20 Q. And Dr. Wakeham reports to Mr. Goldsmith that we
21 now have a study of the effect of smoking and
22 pregnancy which supports previous conclusions that
23 smoking mothers produce smaller babies; correct?
24 A. That's what it says, yes.
25 Q. And he reports that the position of the medical
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1 people is that smaller babies suffer detrimental
2 effects all through life; correct?
3 A. Yes.
4 Q. In other words, they have a diminished health
5 status; correct?
6 A. I beg your pardon?
7 Q. They have a diminished health status is what
8 he's reporting.
9 A. Suffer detrimental effects all through life.
10 Q. That would be diminished health status; right?
11 A. That's not what it says, but one could interpret
12 it to mean that I guess.
13 Q. Yes. And he points out that, for example, in
14 identical twins, the smaller one at birth has lower
15 intelligence scores at age 10; correct?
16 A. That's what it says.
17 Q. And the assumption, of course, is that both
18 twins have similar heredities and environments;
19 correct?
20 A. That's what it says.
21 Q. And he then says that Dr. Fagan's summary of the
22 studies is attached; correct?
23 A. Yes.
24 Q. Now do you know if Philip Morris had an
25 opportunity subsequent to this to tell the American
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1 people about this study or about these studies?
2 A. Did we have an opportunity?
3 Q. Yes.
4 A. Well I guess we did have an opportunity.
5 Q. Okay. Do you know if there were any specific
6 opportunities to specifically address this issue of
7 mothers who smoke?
8 A. I don't know of any special forum that was
9 created.
10 Q. Do you recall yesterday when we talked about Mr.
11 Cullman's Face the Nation appearance on January 3rd,
12 1971?
13 A. Actually vaguely. I'm sorry to say that.

14 Q. Can you turn your attention to Exhibit 10492.
15 A. Yes.
16 Q. And that's the Face the Nation broadcast on
17 January 3rd, --
18 A. The transcript.
19 Q. -- 1971. The transcript of it.
20 A. Right. That's right, yes.
21 Q. And the guest was Joseph Cullman III, chairman
22 of the board, Philip Morris; right?
23 A. That's right, yes.
24 Q. And that's the same Joseph Cullman that sits in
25 on board meetings now; correct?

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1 A. That's right.
2 Q. Can you direct your attention, sir, to page --
3 and I'm referring to the Bates numbers -- Bates 560.
4 That's the last three numbers.
5 A. Yes, I have it.
6 Q. And you did notice, did you not, on the front
7 page, that one of the reporters at this interview on
8 Face the Nation was Morton Mintz?
9 A. Yes, I see his name. Uh-huh.
10 Q. Now I'd like to read a series of questions and
11 answers and ask you some questions. Okay? If you'd
12 direct your attention to the bottom.
13 "MINTZ: Well, in view of the fact that you
14 haven't -- they haven't been proved to be safe, what
15 is the justification you would offer for spending --
16 according to one estimate I've seen -- three billion
17 in the last 20 years to promote their use when there
18 is that uncertainty, when we have an excess deaths of
19 200 to 300 thousand a year, when there is all this
20 evidence, which you don't feel is conclusive -- what
21 is the reason for promoting its use when it might
22 cause cancer, heart disease and so forth?
23 "MR. CULLMAN: Well, I'd have to answer it this
24 way, Mr. Mintz. There are a great many people in the
25 United States and all over the world who enjoy

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1 smoking, who find it satisfies a very important need.
2 We think those people are entitled to the best
3 possible product we can produce. That is essentially
4 our job."
5 Do you see that?
6 A. Yes, I do.
7 Q. Do you agree with that even today?
8 A. I think it's a fair characterization of how I
9 feel. I believe that cigarettes are a legal product,
10 I believe that people are very much aware of the
11 risks associated with it, and I believe in those
12 circumstances we should produce the best possible
13 product we can.
14 Q. Okay. So you agree with in 1998 what Mr.
15 Mintz -- or excuse me, Mr. Cullman said in 1971;
16 correct? Fair statement?
17 A. I just said what I said, yes.
18 Q. Okay. Now Mr. Mintz goes on, "Now embryos don't

19 have much choice; fetuses don't. They don't like to
20 smoke. The British Medical Research Council did a
21 study of all the 17,000 babies born in a single week
22 in the United Kingdom, as you doubtless know. The
23 Council found that those babies born to mothers who
24 smoked during pregnancy were in significantly higher
25 proportion small, weighing under five and a half

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1 pounds approximately, than the babies born to mothers
2 who did not smoke, and there was a higher rate of
3 stillbirths and of deaths within 28 days of birth.
4 My question is, in view of this study, which is the
5 largest and most elaborate of its kind ever made, is
6 it right to promote smoking among women with Virginia
7 Slims and the other brands especially marketed for
8 them with no warning as to the danger to the embryo
9 that may exist?"

10 Now this was in 1971; correct?

11 A. Yes.

12 Q. Two years after the memos --

13 A. (Coughing) Excuse me.

14 Q. That's all right. Do you want some water, sir?

15 A. Thank you.

16 Q. Two years after the memos that we saw, the
17 internal memos; correct?

18 A. Yes.

19 Q. And Mr. Cullman states, "Well, you are reading
20 that question because it is a complicated question.

21 "MR. MINTZ: Yes, it is.

22 "MR. CULLMAN: I would say that I did read that
23 report, and I concluded from that report that it's
24 true that babies born from women who smoke are
25 smaller, but they are just as healthy as the babies

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1 born to women who do not smoke. Some would prefer --
2 some women would prefer having smaller babies." Do
3 you see that?

4 A. Yes, I do.

5 Q. And -- and do you agree with that statement
6 today in 1998?

7 A. Well no, I wouldn't agree with it. I wouldn't
8 say that today, sir.

9 Q. And then Mr. Mintz said, "What about the higher
10 rate of death?

11 "MR. CULLMAN. I'm not familiar with that."

12 Do you see that?

13 A. Yes, I do.

14 Q. Now the higher rate of death was in the memos we
15 just saw from Dr. Wakeham.

16 A. Could you refer me back to that again, please?

17 Q. Yes. If you'd like to go back to 10269, sir.

18 A. Yes, I have it.

19 Q. And why don't you go to the next one, 10270.

20 That might help a little bit more. Under 3.b).

21 A. Uh-huh.

22 Q. "Mothers who smoke have a higher percentage of
23 unsuccessful pregnancies (abortion, still-birth, and

24 neonatal deaths taken together)." Do you see that?
25 A. Yes, I do.

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1 Q. And that is a higher rate of death; correct?
2 A. I think that's a fair characterization of death,
3 yes.
4 Q. And Mr. Fagan reported that to Dr. Wakeham;
5 correct?
6 A. Yes, that's right.
7 Q. And Dr. Wakeham then reported that to Mr.
8 Goldsmith; correct?
9 A. Yes, that's right.
10 Q. And when Mr. Cullman was on a national
11 broadcast, he just said I'm not familiar with that;
12 correct?
13 A. "What about the higher rate of death?" Mr. Mintz
14 said.
15 Q. And what did Mr. Cullman say?
16 A. He said, "I'm not familiar with that." But the
17 only question I'd ask is, is he talking about the
18 higher rate of death of unborn children? I presume
19 he is. That's what I'm --
20 Q. It would be fair to assume that based on the
21 context.
22 A. I think that's fair, yes.
23 Q. Now, you said that the government required a
24 warning; correct?
25 A. Yes.

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5954

1 Q. The government didn't require a warning until
2 1985; isn't that right, sir?
3 A. I'm not sure of the exact date, sir.
4 Q. Let me hand you what has been marked as Exhibit
5 3824, which is the 1994 Surgeon General's report.
6 MR. CIRESI: And Your Honor, we'd offer
7 Exhibit 3824.
8 MR. BLEAKLEY: I'm sorry, what was that?
9 That was the Surgeon General's report?
10 MR. CIRESI: Yes.
11 MR. BLEAKLEY: No objection.
12 THE COURT: Court will receive 3824.
13 MR. CIRESI: May I approach, Your Honor?
14 THE COURT: Yes.
15 (Document handed to the witness.)
16 BY MR. CIRESI:
17 Q. Sir, I've opened it to page 264, and satisfy
18 yourself by looking at the cover that it is the
19 Surgeon General's report.
20 A. Yes, I have no doubt about it. I was just
21 looking for the date, that's all.
22 Q. Now do you see on page 264 it shows various
23 warnings and when they came into effect?
24 A. Yes, I do.
25 Q. And these are warnings that are required by the
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1 government to put on; correct?
 2 A. That is right. By --
 3 Q. Okay.
 4 A. I think Congress determines it.
 5 Q. And Philip Morris never put on any warning until
 6 it was required by the government; correct?
 7 A. That is right, sir, yes.
 8 Q. And in 1985 was when the Surgeon General's
 9 warning: Smoking by pregnant women may result in
 10 fetal injury, premature death and low birth weight;
 11 correct?
 12 A. Premature birth and low birth weight.
 13 Q. Yes. And that is 16 years after Philip Morris
 14 had knowledge of this; correct, sir?
 15 A. From the date of that letter, yes.
 16 Q. At least 16 years; correct?
 17 A. Well 16 years.
 18 Q. Now would you agree, Mr. Bible, that if a person
 19 is addicted to something, that her ability to
 20 exercise her free will is certainly limited?
 21 A. Yes. It would be impaired, I would say.
 22 Q. Be significantly impaired; wouldn't it?
 23 A. It -- it would depend upon the level of
 24 addiction, it would seem to me, sir.
 25 Q. So it could run a spectrum of limitation; is

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1 that right?
 2 A. I would have thought so, yes.
 3 Q. And you can't predict where an individual person
 4 may fall in that spectrum; correct?
 5 A. I think that's a fair comment. I think most
 6 people -- most people are different, so we're all
 7 affected somewhat differently.
 8 Q. And would you agree that if people are addicted
 9 to cigarettes, that your company couldn't very well
 10 defend the cases by saying people had a free choice?
 11 A. Could you give me that question again, please?
 12 Q. Sure.
 13 Would you agree that if people are addicted to
 14 cigarettes, then your company couldn't very well
 15 defend cases by saying people had a free choice?
 16 A. I find that a bit difficult to answer. I'm not
 17 a lawyer, but I would say that your choice is limited
 18 if you are addicted to something. I'd understand
 19 that certainly.
 20 Q. Can you go to Exhibit 140 -- 14303, and that's
 21 in volume two. This is a document that's already in
 22 evidence, sir. It is a Tobacco Institute document,
 23 and it's from Mr. Knopick, who is a Tobacco Institute
 24 employee, to Mr. Kloepper, who's a senior
 25 vice-president for public relations. Do you see

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1 that?
 2 A. Well I see the names. I -- it doesn't say
 3 Tobacco Institute, but I'll accept that you're
 4 correct.

5 Q. It was produced in this litigation by The
6 Tobacco Institute, and if you look at the bottom,
7 you'll see a Bates number that is TIMN.
8 A. Yes, I see that.
9 Q. Okay. And the subject of this is the National
10 Institute of Drug Abuse wanted "addictive" added to
11 the cigarette warning. Do you see that? Very first
12 paragraph.
13 A. Yes, I do see that.
14 Q. And if you would direct your attention to the
15 next page where Mr. Knopick is reporting, "I feel
16 badly about my own lack of intelligence-gathering in
17 this situation. But I don't think the questions I
18 now raise are academic. Shook, Hardy reminds us" --
19 Do you know who Shook, Hardy is?
20 A. They're a law firm.
21 Q. They represent the tobacco industry; correct?
22 A. Well they represent Philip Morris, I know that.
23 Q. Okay. And they've represented Philip Morris for
24 a long time; correct, sir?
25 A. I don't know how long.

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5958

1 Q. Okay. "Shook, Hardy reminds us, I'm told, that
2 the entire matter of addiction is the most potent
3 weapon a prosecuting attorney can have in a lung
4 cancer/cigarette case. We can't defend continued
5 smoking as 'free choice' if the person was
6 'addicted.'" Do you see that?
7 A. Yes, I do see that.
8 Q. Okay. And Shook, Hardy gave that advice to your
9 company?
10 A. Well I don't know.
11 Q. You've never seen this document before?
12 A. No, I've never seen this document.
13 Q. Now do you know, sir, that nicotine is a poison?
14 A. I think I would say I would know that. It would
15 depend upon the quantity.
16 Q. Okay. And you know that in sufficient doses
17 it's fatal?
18 A. I would accept that.
19 Q. And do you know it's a physiologically active
20 substance?
21 A. I don't know that.
22 Q. Do you know if it's similar to cocaine, atropine
23 and morphine?
24 A. Do I know that it is?
25 Q. Yes.

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5959

1 A. No, I would disagree that it is.
2 Q. You would disagree with that.
3 A. Yes.
4 Q. You've never been told that.
5 A. Never been told what, sir?
6 Q. That it is similar to cocaine, atropine and
7 morphine.
8 A. I think I've read that.
9 Q. Where did you read that?

10 A. I think I read that in the Surgeon General's
11 report.
12 Q. Okay. Can you direct your attention to Exhibit
13 11559 in volume one.
14 A. 559?
15 Q. Yes.
16 A. Okay.
17 Q. 11559.
18 A. Good. I have it.
19 Q. Do you have it, sir?
20 A. Yes, I do.
21 Q. And you see that this is a confidential
22 memorandum, it's entitled "TABLE."
23 A. Yes.
24 Q. Now I asked you previously about TABLE. Do you
25 remember that?

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5960

1 A. You asked me previously -- excuse me.
2 Q. About TABLE, Project TABLE.
3 A. Oh, yes. Yes.
4 Q. And I think you said you weren't familiar with
5 it; is that right?
6 A. I've not heard that name, no.
7 Q. You haven't. Okay.
8 A. No.
9 Q. Now this is --
10 The title of this is "TABLE;" correct?
11 A. Yes.
12 Q. It says "Competitive Analysis, Organization,"
13 and "Production." Correct?
14 A. Yes.
15 Q. And --
16 A. It says "Production - to follow." All right.
17 Q. And the name is B. Reuter. Do you know who Mr.
18 Reuter is?
19 A. Yes, I do know Barbara Reuter.
20 Q. And who is Barbara Reuter?
21 A. She's an employee at Philip Morris.
22 Q. What is her position?
23 A. I'm not sure of her position today. My
24 recollection of her was in the planning department.
25 Q. Planning department.

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5961

1 A. That was my recollection of her, yes.
2 Q. And you do not know what position she has today?
3 A. No, I don't.
4 Q. Okay.
5 A. She works for Philip Morris domestic cigarette
6 operations.
7 Q. Can you --
8 There's no date on the front of this document;
9 is there, sir?
10 A. No.
11 Q. Can you direct your attention to page four.
12 A. Yes.
13 Q. And I'm using the number at the bottom, not the
14 Bates number.

15 A. Yes, I have page four.
16 Q. Need some more water?
17 A. I think I'm all right. Thanks.
18 Q. Now do you see here it says "Source: TMA
19 Estimates (10/05/92)?"
20 A. No, I don't see that.
21 Oh, yes, I do. Thank you.
22 Q. Right under "Grand Total."
23 A. Yes, I've got it.
24 Q. Okay. Would it be fair to assume, sir, that the
25 date of this memorandum is at least sometime after
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5962

1 October 5th of 1992?
2 A. I think that's a fair assumption, yes.
3 Q. All right. Now can you turn back to -- and
4 excuse me. Strike that.
5 Do you know that this is a Philip Morris
6 document?
7 A. Do I know that it is?
8 Q. Yes.
9 A. Well I would assume that it is because Barbara
10 Reuter's name is on it. But I don't know if it is.
11 Q. I will represent to you that it is a Philip
12 Morris document produced in this litigation. Did you
13 provide this to Congress?
14 A. Did I provide this to Congress?
15 Q. Yes.
16 A. No, I have no -- I have no --
17 Well I have no recollection of providing it.
18 Q. Now if you go to page 665, the Bates
19 number -- turn back -- it starts with the words
20 "COMPETITIVE ANALYSIS" and it's the second page of
21 the document.
22 A. Uh-huh.
23 Q. Now I'd like to direct your attention to the
24 second paragraph.
25 A. Uh-huh.

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5963

1 Q. "Different people smoke cigarettes for different
2 reasons. But, the primary reason is to deliver
3 nicotine into their bodies." Do you see that?
4 A. Yes, I do.
5 Q. Do you agree with that?
6 A. Do I agree with that? No, I don't think so.
7 Q. You don't. Okay.
8 A. No.
9 Q. "Nicotine is an alkaloid derived from the
10 tobacco plant." Do you see that?
11 A. Yes, I do.
12 Q. And do you agree with that?
13 A. Well nicotine certainly comes from the tobacco
14 plant, yes.
15 Q. Do you know if it's an alkaloid?
16 A. I think I do. I'm not quite sure what an
17 alkaloid is.
18 Q. Okay. Then it states, "It is a physiologically
19 active nitrogen containing substance." Do you see

20 that?

21 A. Yes, I do.

22 Q. Do you degree with that?

23 A. I wouldn't have a clue frankly.

24 Q. You don't know.

25 A. No, I don't know.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

5964

1 Q. "Similar organic chemicals include nicotine,
2 quinine, cocaine, atropine and morphine." Do you see
3 that?

4 A. Yes, I do.

5 Q. Do you agree with that?

6 A. I would have no idea.

7 Q. This is a Philip Morris document where that's
8 reported; correct?

9 A. Yes, it's correct. It seems to me to be written
10 by somebody who, to the best of my knowledge, never
11 worked in our R&D department and has no scientific
12 background, to the best of my knowledge.

13 Q. Is she a provocateur?

14 A. What do you mean by that, sir?

15 Q. Same thing Mr. Morgan meant yesterday in his
16 deposition that we saw. And you witnessed it.

17 A. You mean does she attempt to provoke thought,
18 stimulate ideas?

19 Q. Is she a provocateur?

20 A. I have no idea.

21 Q. You don't.

22 Do you have any reason to believe she was lying
23 in this document?

24 A. No, I have no reason to believe she was lying.

25 Q. Do you know her to be an honest person?

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5965

1 A. I expect she is very honest.

2 Q. Do you know her to be a responsible person?

3 A. I do.

4 Q. Do you know her to do her job responsibly?

5 A. I do. But I don't know what her job was when
6 she wrote this, but I certainly don't believe she's
7 qualified to say these things because I don't believe
8 she's a scientist.

9 Q. You just don't agree with it; correct?

10 A. I beg your pardon?

11 Q. You don't agree with it; correct?

12 A. Agree with what?

13 Q. The last statement, "Similar organic compounds
14 include nicotine, quinine, cocaine, atropine and
15 morphine."

16 A. No, I think what I said is I don't know.

17 Q. You don't know.

18 A. Hmm.

19 Q. "While each of these substances can be used to
20 affect human physiology, nicotine has a particularly
21 broad range of influence." Do you agree with that?

22 A. I have no idea.

23 Q. Did you tell Congress that when you testified?

24 A. Tell them what, sir?

25 Q. What I just read.

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5966

1 A. Why should I have told Congress that?

2 Q. You were testifying on addiction in front of
3 Congress; weren't you?

4 A. I was asked questions about that, yes.

5 Q. "During the smoking act, nicotine is inhaled
6 into the lungs in smoke, enters the bloodstream and
7 travels to the brain in about eight to 10 seconds."

8 Do you agree with that?

9 A. Do I agree with that?

10 Q. Yes.

11 A. I have no idea.

12 Q. Never talked to Dr. Ellis about that?

13 A. I did --

14 I have asked her some questions, but I never
15 asked her that particular question.

16 Q. Did you ever ask her about the forms of nicotine
17 and how fast they can get to the brain?

18 A. No, I have not. I have asked her about ammonia,
19 and in the course of that she talked a little bit
20 about the form of nicotine. But beyond that, I've
21 never asked her that question.

22 Q. Did she tell you at that time that nicotine with
23 a higher pH gets to the brain faster?

24 A. No, she never told me that at all.

25 Q. Did you ask her?

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1 A. Yes, I did. And what she told me was, if I
2 remember correctly, was that ammonia -- sorry,
3 nicotine absorbed through the mouth enters the brain
4 more slowly than it does when absorbed through the
5 lung. That's my memory of what she told me.

6 Q. Nicotine absorbed through the mouth enters the
7 brain more slowly than when absorbed through the
8 lung; correct?

9 A. That's what I remember her telling me, yes.

10 Q. Is that all she told you?

11 A. On what subject, sir?

12 Q. On that subject, sir.

13 A. Which subject?

14 Q. The subject of how fast nicotine gets to the
15 brain.

16 A. Yes, I think that's all she told me.

17 Q. Did she tell you anything else about the form of
18 nicotine and it getting into the bloodstream?

19 A. I think in the course of that conversation she
20 told me that --

21 Could you rephrase the question, please, or
22 repeat the question?

23 Q. Of course.

24 Did she tell you anything about -- else about
25 the form of nicotine and how fast it gets to the

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1 brain or into the bloodstream?
2 A. No, I don't recall that, no.
3 Q. All right. Do you recall anything else that she
4 told you in that conversation you had?
5 A. On what subject, sir?
6 Q. On the subject of nicotine getting into the
7 blood system and getting to the brain.
8 A. No, I don't recall more else. I think what she
9 told me I talked to Congress about, and that was the
10 totality of what our conversation was.
11 Q. Well, you were preparing to testify to
12 Congress --
13 A. Uh-huh.
14 Q. -- when you talked to her; correct?
15 A. I had talked to her before, and then I talked to
16 her again during that time, yes.
17 Q. You wanted her to give you all the information
18 regarding what you were going to testify to Congress
19 about; correct?
20 A. Certainly to the best of what I expected I would
21 be asked. I wanted to feel that I could answer
22 questions honestly.
23 Q. You wanted to be honest and truthful and
24 complete with Congress; didn't you?
25 A. Absolutely.

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5969

1 Q. You understood you had an obligation to do that;
2 didn't you, sir?
3 A. Yes. I testified under oath.
4 Q. Now you're aware that the FDA has found that the
5 cigarette is a nicotine-delivery device; correct?
6 A. The FDA has described it as such, yes, I believe
7 that's true.
8 Q. And that the FDA, after looking at recently
9 released documents and medical information -- and by
10 "documents" I mean cigarette industry documents --
11 came to the conclusion that cigarettes are intended
12 by the manufacturer to affect the structure and
13 function of the human body. You're aware of that;
14 aren't you, sir?
15 A. I am aware of that, yes.
16 Q. And it was based in part on the recently
17 released documents that the FDA had; correct?
18 A. I'm not aware of that, sir.
19 Q. Do you have your deposition up there, sir? Do
20 you have your deposition up there?
21 A. Where, sir?
22 Q. It may be to your right.
23 A. Oh, I see.
24 Q. The deposition is --
25 You may not have it, sir. Excuse me.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

5970

1 MR. CIRESI: Your Honor, may I approach?
2 THE COURT: Yes.
3 (Document handed to the witness.)
4 BY MR. CIRESI:
5 Q. Let me hand you a copy of your deposition, sir.

6 A. Thank you.
7 Q. And you recall giving a deposition on August
8 21st, 1997, in Palm Beach, Florida?
9 A. Yes, I do.
10 Q. And this was in the Medicaid action brought by
11 the state of Florida?
12 A. Yes, that's right.
13 Q. You were under oath at the time?
14 A. Yes.
15 Q. And the FDA, sir, had determined that nicotine
16 was a drug-delivery device after 1994; correct?
17 A. I think that's right, yes.
18 Q. And you know that this lawsuit here in Minnesota
19 was brought in August of 1994; don't you?
20 A. Well no, I didn't know that, but I'm not going
21 to argue.
22 Q. You know that substantial numbers of documents
23 have been produced in this case; correct?
24 A. Yes, I'm aware of that.
25 Q. You know that they were under protective order
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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

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1 so they could not be disclosed to various people. Do
2 you know that?
3 A. They're under the protective order of the court?
4 Q. Yes.
5 A. Yes.
6 Q. And do you know that your attorneys designated
7 the documents confidential to be covered by the
8 protective order?
9 A. I believe that's right.
10 Q. In fact, you've recently released all those
11 documents on the Internet system; haven't you?
12 A. That's right.
13 Q. That was last Friday; correct?
14 A. That's right.
15 Q. And you did that as part of a commitment that
16 you made to Congress on January 29th of this year;
17 correct?
18 A. That's right.
19 Q. Now the FDA, sir, after 1994, got access to
20 thousands of pages of internal company documents;
21 didn't they?
22 A. Well I'm not sure, but I know they got access to
23 a lot of documents.
24 Q. And that's what they based in part their finding
25 on; isn't that right?

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5972

1 A. Well I'm not sure.
2 Q. All right. Can you turn your attention to page
3 45 of the deposition that was taken of you last
4 August 21st.
5 A. Uh-huh. Yes, I have it.
6 Q. And I want to direct your attention to that page
7 45 starting at line four.
8 A. Uh-huh.
9 Q. "Question: Mr. -- Mr. Bible, just as a general
10 question, you are familiar, of course, with this big,

11 thick document -- I'm not suggesting that you've read
12 every page.

13 "Answer: I can guess what it is.

14 "Question: It's the rule making of the Food and
15 Drug Administration, finding that cigarettes are
16 nicotine delivery devices. You're generally --
17 you're aware generally they made such a thing as
18 that?

19 "Answer: I am.

20 "And I've placed before you Exhibit 7-A, which
21 is the executive summary, and I'd ask you, please,
22 sir, kindly turn to page X. Are you aware that the
23 Food and Drug Administration, after a considerable
24 period of taking testimony, concluded that, quote,
25 There is an emergence of a scientific consensus that

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1 cigarettes and smokeless tobacco cause addiction to
2 nicotine and the disclosure of thousands of pages of
3 internal tobacco company documents detailing that
4 these products are intended by the manufacturers to
5 affect the structure and function of the human body.
6 This new evidence justifies the agency's
7 determination that cigarettes and smokeless tobacco
8 are delivery systems for the drug nicotine.'

9 "Now, my question to you, sir, is, are you
10 broadly aware that they made that finding?

11 "Answer: I am."

12 Is that correct?

13 A. That's correct, yes.

14 Q. Now that was just seven months ago; correct?
15 Roughly.

16 A. Six months ago.

17 Q. Now when you testified in Congress, you called
18 nicotine as having a mild pharmacological effect, and
19 that it was behaviorally but not pharmacologically
20 addictive; is that right?

21 A. I think that's what I said, yes.

22 Q. And you quoted from a company document in
23 reading that; correct?

24 A. Yes. We'd made a document we submitted to
25 Congress, and it's public.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

5974

1 Q. And who did you rely on in making the statement
2 that it was behaviorally but not pharmacologically
3 addictive?

4 A. My chief scientist.

5 Q. Is that Dr. Ellis?

6 A. Yes, that's Dr. Ellis.

7 Q. Okay. And what is the difference between
8 pharmacologically addictive and behaviorally
9 addictive, if you know?

10 A. Well I'm not a scientist, let me first start out
11 by saying that, but I believe that pharmacologically
12 addictive to me would, for example, include an
13 objective marker such as intoxication, for example.
14 Behaviorally addictive, say, I would identify that or
15 define that as a habit where you repeat something

16 frequently.
17 Q. Pharmacologically to you means intoxication?
18 A. I think that's one very important marker which
19 to me would be important to the definition.
20 Q. Do you know what the word "pharmacological"
21 means?
22 A. No, I don't. I've not looked it up in the
23 dictionary.
24 Q. Never.
25 A. No, I haven't actually.

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5975

1 Q. Do you know if it means a drug effect?
2 A. I would have thought that's probably what it
3 means, yes. I wouldn't doubt that if somebody told
4 me that's what it says.
5 Q. And the drug affects a person physiologically;
6 correct?
7 A. Yes, it --
8 Physiological is a word I've never really fully
9 understood, but if you could tell me what you mean by
10 that.
11 Q. Well how about if it alters the state of the
12 smoker by becoming a neurotransmitter?
13 A. My goodness, that's something I'm not familiar
14 with, sir.
15 Q. How about if it affected the brain by that
16 neurotransmitter, are you aware of that?
17 A. Well perhaps I could be guessing now a little, I
18 don't like to guess, but perhaps that's what Dr.
19 Ellis meant when she told me it was mildly
20 pharmacological.
21 Q. Oh. So it would have a pharmacological effect.
22 A. I said it had mild pharmacological effects. I
23 think I said that in Congress.
24 Q. Can you take a look at Exhibit 11559. Same
25 document we were on, sir. That's the --

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1 A. Okay.
2 Q. That's the TABLE document. Very same page.
3 A. Yes, I have it.
4 Q. Okay?
5 A. Uh-huh.
6 Q. Now remember, I was reading to you that it
7 travels to the brain in about eight to 10 seconds?
8 A. Yes.
9 Can you just point me to that again, please?
10 Q. Sure. Third paragraph.
11 A. Uh-huh.
12 Q. First sentence. See it?
13 A. Yes, I have it.
14 Q. Second sentence, "The nicotine alters the state
15 of the smoker by becoming a neurotransmitter and a
16 stimulant. Nicotine mimics the body's most important
17 neurotransmitter, acetylcholine (ACH), which controls
18 heart rate and message sending within the brain. The
19 nicotine is used to change psychological states
20 leading to enhanced mental performance and

21 relaxation." Do you see that?
22 A. Yes, I do.
23 Q. Were you ever told that by Dr. Ellis?
24 A. No, I don't think I was told that, no.
25 Q. And do you see there that neurotransmitters are
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1 referred to? Correct?
2 A. Yes, there is --
3 That word is there, you're right.
4 Q. Did you consider those to be pharmacological
5 effects?
6 A. Which, sir?
7 Q. The effect on neurotransmitters affecting the
8 body's most important neurotransmitter, ACH.
9 A. You know, I don't know.
10 Q. You don't know.
11 A. I don't know. I am not a scientist, sir.
12 Q. Do you think that's a mild pharmacological
13 effect?
14 A. Sir, I would not know. I don't know what a
15 neurotransmitter is, and I don't know what
16 acetylcholine is.
17 Q. If -- does --
18 Do drugs sedate people?
19 A. I believe they do, yes.
20 Q. Is that a pharmacological effect?
21 A. Well I'd have thought that's a fair indication.
22 But again, I'm a layman and I'd just be guessing at
23 it.
24 Q. Would you call it mild?
25 A. Depends upon the drug.

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1 Q. Okay. And --
2 A. For example, I've just taken some Sudafed, and I
3 think that's mild. I presume that's a drug.
4 Q. Okay. Direct your attention, then, to the same
5 paragraph, little bit further down, "A little
6 nicotine seems to stimulate, while a lot sedates a
7 person. A smoker learns to control delivery of
8 nicotine through the smoking technique to create the
9 desired mood state." Do you see that?
10 A. Yes, I do.
11 Q. Sounds like a drug-delivery device; doesn't it,
12 sir?
13 A. Doesn't to me.
14 Q. It doesn't to you?
15 A. No, it doesn't to me, because I'm a smoker.
16 That's not how I view the cigarette.
17 Q. You don't view the cigarette that way.
18 A. No, I don't.
19 Q. Now did Dr. Ellis, before you testified in
20 Congress, tell you that you can alter the form of
21 nicotine to speed its delivery to the brain?
22 A. No, she never told me that, I don't think, no.
23 Q. Did she tell you that could be done through
24 ammonia?
25 A. No, she didn't tell me that at all.

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- 1 Q. Can you direct your attention to Exhibit 11751.
2 A. In fact, if I could just mention that I think
3 she told me the reverse, in fact, which I just
4 mentioned back to you, that in fact nicotine absorbed
5 through the mouth reaches the brain more slowly than
6 through the lung. I think that's what I was told.
7 Q. I'm talking about, sir --
8 I understand that. Did she tell you, though,
9 that altering the form of it from acid to base would
10 speed its passage to the brain?
11 A. You've got me there. She didn't say that to me.
12 I don't know what "acid to base" means, sir.
13 Q. Did she tell you the opposite of that?
14 A. I don't know, sir. I wouldn't know how the
15 opposite would be described.
16 Q. Can you direct your attention to Exhibit 11751,
17 please.
18 A. Yes, I have that.
19 Q. Now that's a letter to Dr. Ellis; correct?
20 A. Yes.
21 Q. And it's dated November 15th, 1994; correct?
22 A. Yes, that's right.
23 Q. And it's from Cologne, the INBIFO Contract
24 Research organization owned by Philip Morris?
25 A. Yes, that's correct.

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- 1 Q. And sir, if you'd direct your attention to the
2 last page, do you see that there's an enclosure which
3 is an appendix of two pages? It's referenced there.
4 A. No, I don't see it, sir.
5 Q. Right at the very bottom under Mr. Reininghaus's
6 signature, "Enclosure: Appendix, 2 pages."
7 A. Oh, I see, it's written. I don't see any
8 appendix, I see words saying that. Sorry.
9 Q. All right. And if you go to the next exhibit --
10 A. Yes.
11 Q. -- and you'll notice the next Bates number
12 produced by your company, Philip Morris, Exhibit
13 11751, ended with the Bates number 912; didn't it?
14 A. Yes, that's right.
15 Q. And the next exhibit then is Exhibit 11752, at
16 the top it says "APPENDIX;" correct?
17 A. Yes. It says "APPENDIX 1" in fact.
18 Q. Correct. And the Bates number there is 913;
19 correct?
20 A. Yes, that's correct.
21 Q. Okay. I want you to assume that this is the
22 appendix that was attached to Exhibit 11751. All
23 right?
24 A. Yes, I -- I can assume that.
25 Q. All right. Now, we see the date here is

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- 1 November 15th, 1994; correct?

2 A. Yes.
3 Q. And I want to set the scene a little bit, sir.
4 A. Uh-huh.
5 Q. Congressional hearings had taken place in
6 Congress; correct?
7 A. That year in 1994? Yes, I think it was April
8 '94.
9 Q. And every one of the chief executive officers of
10 the tobacco companies stood up and swore under oath
11 that nicotine was not addictive; correct?
12 A. That's my memory of what happened, yes.
13 Q. Philip Morris's CEO did that, correct?
14 A. That's my memory. And also he had the issue
15 explained by these scientists.
16 Q. And the Waxman hearings had disclosed documents
17 that had never before been disclosed; correct?
18 A. I don't recall that, sir. I won't dispute it,
19 but I don't recall that.
20 Q. And the FDA started investigating; correct?
21 A. The FDA, I think, had started prior to that. I
22 remember Dr. Kessler making some report, I think, in
23 February '94, not long before I became CEO. And --
24 Q. So --
25 A. -- I think the congressional hearings were in

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1 April '94, so yes, he started his inquiry.
2 Q. So at that time there were FDA proceedings going
3 on to look to regulate cigarettes as a drug; correct?
4 A. That's right, yes.
5 Q. We had the congressional hearings; correct?
6 A. Yes.
7 Q. The chief executive officers testified that
8 nicotine was not addictive; correct?
9 A. That's correct, sir, yes.
10 Q. And between 1994 and 1998, there were no
11 definitional changes in the medical literature
12 regarding addiction; were there?
13 A. Not to my knowledge, sir.
14 Q. And Philip Morris started investigating between
15 1994 and 1998 in order to react to whether or not the
16 form of nicotine had been deliberately changed to
17 hasten its journey to the brain; correct?
18 A. I don't know about that, sir.
19 Q. Let's take a look at Dr. Ellis's information.
20 Now you see that this is a letter to her of about
21 four pages.
22 A. Uh-huh. Yes.
23 Q. And signed by Mr. Reininghaus; correct?
24 A. That's right, yes.
25 Q. Do you know who he is?

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1 A. Yes. I believe he runs INBIFO, the Research
2 Institute.
3 Q. Okay. And Ms. Ellis is the director of research
4 at Philip Morris at that time; correct?
5 A. I think that's right. Yes, she's addressed as
6 such, yes.

7 Q. And still is today; correct?
8 A. I think she's senior vice-president. I've just
9 forgotten her exact title.
10 Q. She's still head of research?
11 A. No. I think that the activities have been
12 divided. I'm just not quite sure of the exact
13 organization structure now. But she's a senior
14 scientist at the organization.
15 Q. Now in this memorandum Mr. Reininghaus sets
16 forth the uptake of nicotine by smokers; correct?
17 A. Yes.
18 Q. And he talks about it as being a complex
19 process; correct?
20 A. He says that, yes.
21 Q. And he talks about the parameters which are
22 expected to influence the bio -- bioavailability of
23 nicotine; correct?
24 A. He says that, yes.
25 Q. And do you know that the bioavailability means
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1 its availability in the blood system?
2 A. No, I don't know that.
3 Q. You assume that to be a fair statement?
4 A. Well I'll accept it as a fair statement.
5 Q. And he talks, then, about those parameters. One
6 is smoke production; correct?
7 A. Yes.
8 Q. The nicotine concentration in the smoke; right?
9 A. Yes.
10 Q. Particle size?
11 A. Yes.
12 Q. Nicotine phase distribution?
13 A. Yes.
14 Q. Do you know what that is?
15 A. No, I don't.
16 Q. He talks about nicotine deposition and
17 diffusion; correct?
18 A. Yes.
19 Q. Talks about two points under there, particle
20 impaction and gas phase diffusional transport in the
21 upper respiratory tract; correct?
22 A. Yes, correct.
23 Q. That would be the mouth; correct?
24 A. I would have thought the upper respiratory tract
25 would have been here (gesturing towards throat area)

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1 where I would have thought.
2 Q. Okay. You don't know if it includes the mouth
3 or not.
4 A. I don't know, sir, no.
5 Q. All right. And then he talks about that
6 nicotine transport in the lower respiratory tract;
7 correct?
8 A. Yes, he does.
9 Q. And then he talks about nicotine uptake;
10 correct?
11 A. Yes.

12 Q. And on the next page he talks about overall
13 pharmacokinetics; correct?
14 A. Yes.
15 Q. Do you know if that refers to the speed by which
16 nicotine is taken into the blood system?
17 A. No, I -- I wouldn't have a clue, sir.
18 Q. Okay. Now if you turn over to page three of
19 this, --
20 A. Yes.
21 Q. -- and do you see he says here, "Due to the
22 selective membrane permeability only unprotonized
23 nicotine can freely penetrate the mucosa or the
24 bronchial alveolar lining."
25 A. Yes, I read that.

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1 Q. All right. Now do you know what the bronchial
2 alveolar lining is?
3 A. No, I don't.
4 Q. If I tell you it's the lining of the lung, would
5 you accept that?
6 A. Well you're not a scientist, I presume, but it
7 sounds reasonable.
8 Q. I'll grant you I'm not a scientist, sir.
9 Did you discuss that at all with Dr. Ellis
10 before you testified in front of Congress?
11 A. Discuss which, sir?
12 Q. The bronchial alveolar lining.
13 A. No, I did not.
14 Q. Did you discuss the transfer of nicotine through
15 the bronchial alveolar lining or through the lung
16 membrane at the time you testified?
17 A. No, I didn't discuss that particular aspect, no.
18 Q. Now you see down right below -- or above number
19 four --
20 A. Yes.
21 Q. -- it says, "However, an influence of smoke pH
22 on nicotine kinetics in the lower respiratory tract
23 cannot be excluded: pH-enhanced gas diffusion of
24 nicotine to the mucosa might increase its uptake
25 rate." Do you see that?

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1 A. Yes, I do.
2 Q. Now if we go on, then, sir, to Exhibit 11752.
3 A. Uh-huh.
4 Q. This is the appendix. You remember that?
5 A. Yes. We presume it's the appendix. I think
6 that's fair.
7 Q. "The Effects of Cigarette Smoke 'pH' on Nicotine
8 Delivery and Subjective Evaluations." Do you see
9 that?
10 A. Yes.
11 Q. Now I want to represent to you, sir, that
12 delivery is the amount of nicotine, not the form.
13 Will you accept that? Are you with me?
14 A. Well I don't really -- I don't really know the
15 distinction between the two, frankly.
16 Q. That's --

17 Well we're going to see if -- if you do or
18 don't.
19 A. Okay.
20 Q. I'd just like you to assume that the delivery is
21 different than the form of the nicotine. All right?
22 A. Well I'll try, yes.
23 Q. All right. And you didn't have any discussion
24 about that with Dr. Ellis?
25 A. About what, sir?

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1 Q. About the form versus delivery of nicotine
2 itself.
3 A. It wouldn't occur to me. I don't even know what
4 it means, as I said to you.
5 Q. Well you knew you were going to testify in
6 Congress about whether or not you were manipulating
7 nicotine to increase the addictive nature of
8 cigarettes; weren't you?
9 A. I didn't know that.
10 Q. You didn't --
11 A. No.
12 Q. -- at the time you testified?
13 A. I didn't know what I was going to be testifying
14 about in Congress, sir. They generally asked me the
15 questions.
16 Q. Well that was one of the subject matters that
17 you knew you were going to be asked about; wasn't it?
18 A. Well I thought I might be asked about it.
19 Q. Okay. And that was whether or not Philip Morris
20 was manipulating nicotine through ammoniation to
21 increase its speed to the brain; correct?
22 A. I thought that I would be asked a question as to
23 why we used ammonia in our products.
24 Q. Okay. Now I'd like to start in the second
25 paragraph. And if you want to read the first

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1 paragraph, please do so, sir.
2 A. Well thank you.
3 Q. Are you ready?
4 A. Well not quite. Could you just bear with me,
5 please?
6 Q. Oh, I will.
7 A. Yes. Little hard for me to understand, I have
8 to tell you that. However, I've read it.
9 Q. Complex area; correct?
10 A. I beg your pardon?
11 Q. Complex area.
12 A. Well that, I guess, is why I'm not a scientist.
13 Q. And how many smokers do you think are
14 scientists?
15 A. I don't know, sir.
16 Q. Would you agree with me it would be fair to
17 assume that the overwhelming majority are not
18 scientists?
19 A. I think that's probably a fair --
20 You know, a majority of the citizens of the
21 world are not scientist, so I think that's fair.

22 Q. And would you agree with me that the
23 overwhelming majority do not have scientists at their
24 disposal to explain complex chemical matters?
25 A. Yes, I would agree with that.

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1 Q. Now in paragraph two we see it's reported as
2 follows: "The argument that bases" --
3 Now do you know if ammonia is a base?
4 A. I don't know what a base is, sir.
5 Q. All right. I'd like you to assume that ammonia
6 is a base. It's been so testified here. Can you
7 assume that?
8 A. You know, honestly I don't know what a base is
9 to assume that. I know a base in baseball, but
10 that's about the only base I do know of.
11 Q. We're not talking about baseball, sir.
12 A. I know we aren't, sir, but I don't know what a
13 base is.
14 Q. We're talking --
15 With all due respect, Mr. Bible, we're talking
16 about matters of life and death. We're not talking
17 about baseball. Do you understand that, sir?
18 A. Sir, I was trying to explain to you I don't
19 understand what "bases" mean.
20 Q. And I ask you to assume that a base is ammonia.
21 Can you do that?
22 A. I'll try, yes.
23 Q. Thank you.

24 "The argument that bases are added to increase
25 the nicotine delivery above normal

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1 levels" -- nicotine delivery above normal
2 levels -- "is entirely specious." Do you see that?
3 A. Yes, I see that.
4 Q. All right. Now that's the delivery, the amount
5 of nicotine; do you know that? If you don't, just
6 tell me you don't know.
7 A. I would --
8 No, I think that's fair. To -- to increase the
9 nicotine delivery would be to increase the amount of
10 nicotine. I think that's a fair assumption.
11 Q. All right. "The same amount of nicotine is
12 delivered whether the smoke is acidic, basic, or
13 neutral." Do you see that?
14 A. That's what it says, yes.
15 Q. "Only the form, not the amount of nicotine is
16 changed."
17 A. Yes, that's what it says.
18 Q. "To illustrate, a study was conducted on
19 nicotine aerosols, where subjects inhaled the same
20 amounts of nicotine at pHs of 5.6, 7.5 and 11.0."
21 A. Uh-huh.
22 Q. "It was found that higher peak concentrations of
23 nicotine in blood were achieved at higher pHs. Since
24 the amounts of inhaled nicotine were the same, the
25 results indicate that the higher the pH, the more

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1 rapidly nicotine enters the blood stream.
2 Eventually, of course, all of the nicotine,
3 regardless of pH, would enter the blood stream. Only
4 the rate of entry is pH dependent." Do you see that?
5 A. Yes, I read that.
6 Q. Next paragraph. "We conducted a study comparing
7 the electrophysiological and subjective effects
8 produced by smoking cigarettes containing nicotine as
9 the base to the effects produced by smoking nicotine
10 as the citrate." And you know that a citrate is a
11 salt?
12 A. Yes.
13 Q. Yes.
14 A. I think I do, yes.
15 Q. "Equimolar amounts of nicotine were used. We
16 found that, compared to cigarettes containing the
17 citrate, cigarettes containing the base produced
18 enhanced electrophysiological and subjective
19 responses. It is of interest to note the filler pHs
20 for the base and the citrate cigarettes were 6.4 and
21 5.2, respectively. Nicotine delivery levels,
22 however, were not different."
23 Next paragraph.
24 A. Uh-huh.
25 Q. "We conducted a study assessing the effects of

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1 increase filler pH on electrophysiological and
2 subjective responses to cigarettes." They're testing
3 them on people; correct, sir? Is that correct?
4 A. No, I have no idea, sir. I think this is an
5 animal laboratory --
6 Q. You do. Okay.
7 "The cigarettes contained 0, 1 or 2 calcium
8 hydroxide. Filler pHs were 5.7, 6.6 and 8.0,
9 respectively. The corresponding nicotine deliveries
10 were 0.34, 0.32, and 0.31 milligrams/cig. It is
11 clear from these data that filler pH has no effect on
12 nicotine delivery. We found that increased filler pH
13 resulted in enhanced electrophysiological and
14 subjective effects. We interpreted this data to mean
15 that the higher pHs resulted in more unprotonated
16 nicotine - a physiologically -- a more
17 physiologically effective form." Do you see that?
18 A. Yes, I do.
19 Q. Now before you testified in front of Congress,
20 did Dr. Ellis tell you about that?
21 A. Tell me about what, sir?
22 Q. What we just read.
23 A. No, she did not. No.
24 Q. You didn't know this when you testified?
25 A. I didn't know --

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1 The contents of this paper that you just read
2 out?

3 Q. And when you testified, you were very careful
4 about what you said; didn't you?
5 A. I'm always very careful about what I say. I try
6 to be, sir.
7 Q. And if you could direct your attention to
8 Exhibit 24299.
9 A. Yes, I have that.
10 Q. And you see that that's a copy of the January
11 29th, 1998 session in Congress?
12 A. Yes, that's right.
13 MR. CIRESI: Your Honor, we'd offer Exhibit
14 24299.
15 MR. BLEAKLEY: Your Honor, there's a lot of
16 information in here other than the testimony of Mr.
17 Bible.
18 THE COURT: Has this been designated,
19 counsel?
20 MR. CIRESI: It has, Your Honor.
21 THE COURT: Received.
22 BY MR. CIRESI:
23 Q. Now I want to direct your attention, sir, to
24 page 72. Are you testifying on that page in response
25 to questions by Representative Gillmor?
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1 A. Yes. And others.
2 Q. Okay. Now I'd like to direct your attention,
3 sir, about halfway down --
4 A. Uh-huh.
5 Q. -- where --
6 Oop, if you could move it back just a little
7 bit, please, Ms. Sutton. Thank you.
8 Do you see there where it says:
9 "REPRESENTATIVE GILLMOR: Yeah, I'll -- I'll
10 yield?"
11 A. Yes, I do see that.
12 Q. That means he gives up the floor to another
13 congressman; correct?
14 A. That's right.
15 Q. Okay. And the next congresssperson then
16 addresses you with a question; correct?
17 A. Yes.
18 Q. "To follow up on your question about the
19 nicotine levels, I had in my initial question asked
20 you about whether some of the companies here
21 ammoniate, paren, pH, close paren, tobacco in their
22 process. And so I'm wondering, Mr. Bible and Mr.
23 Goldstone" --
24 Mr. Goldstone, he's the CEO from RJR; right?
25 A. That's right, sir, yes.
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1 Q. -- "if you could comment on whether your company
2 ammoniates its tobacco in its production now, or if
3 it has in the past, and whether that in fact
4 potentiates the level of nicotine." Correct?
5 A. Yes, that's what it says.
6 Q. Now you were very careful how you answered this
7 question; weren't you, sir?

8 A. Sir, I answered the question.
9 Q. I know you did.
10 A. And I answered it as intelligently as I could
11 answer the question.
12 Q. Did you --
13 Did you read this answer?
14 A. No, sir, I didn't read this answer.
15 Q. But this answer was based on how you were
16 prepared by Dr. Ellis; correct?
17 A. No, it was based on how I asked her these
18 questions about ammonia, and that's what she told me.
19 Q. And what she told you.
20 A. Uh-huh.
21 Q. And she didn't tell you about Exhibits 17751 and
22 17752; did she, sir?
23 A. No, she didn't. I think I asked her
24 specifically about this subject because, as I said,
25 it had been very topical.

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1 Q. Yeah. And that's how you answered. "Yes, well,
2 that's a topical subject, because quite a bit has
3 been written about it. So I've asked my scientists
4 about that subject."
5 Who else did you ask besides Dr. Ellis?
6 A. Well I really meant Dr. Ellis.
7 Q. "And I'm told that ammonium compounds are used
8 in two ways in our products. In the first instance
9 they are used as a blending agent in the manufacture
10 of what is called sheet tobacco, which is included in
11 the cigarette. And that blend -- its capability
12 there is to act as an agent to release the pectins to
13 cause the tobacco to bind and become a sheet." Do
14 you see that?
15 A. Yes, I do.
16 Q. Two kinds of sheet tobacco, though; aren't
17 there, sir?
18 A. I believe there are, but I'm not familiar with
19 the differences.
20 Q. One is band cast and one's called RL,
21 reconstituted leaf; correct?
22 A. I've heard that, yes.
23 Q. And there are no pectins released in
24 reconstituted leaf through the action of ammonia to
25 bind; are there?

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1 A. Sir, I was told by Dr. Ellis that in order to
2 release the pectins to cause the sheet to bind,
3 ammonia was added.
4 Q. Do you know if that's true in both band cast and
5 reconstituted leaf?
6 A. I -- I don't know, but it certainly is true in
7 one of them, sir.
8 Q. In one of them.
9 A. Yes.
10 Q. You know it's true in only one, and that's band
11 cast; isn't that right, sir?
12 A. I don't know that, sir. In fact I've never

13 heard the word "band cast" in my life, I don't think.
14 Q. But you just said that you knew it was true for
15 at least one; didn't you?
16 A. Well I thought there was -- that all sheet was
17 similar, frankly, sir.
18 Q. You said, "I don't know, but it certainly is
19 true in one of them."
20 A. Well because you'd been saying there were two.
21 Q. Ah. Okay.
22 You go on to testify, "But I'm also told that
23 the ammonium compounds that are used in the
24 cigarettes we sell do not cause the amount of
25 nicotine in smoke to rise."

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5999

1 That's the delivery; right?
2 A. Well yes. I think they're synonymous, yes.
3 Q. Yes. "They do not cause the amount of nicotine
4 absorbed by the lung to rise. It does not change the
5 form of the nicotine that goes to the brain." Do you
6 see that?
7 A. Yes, I do see that.
8 Q. And that's directly contrary to Exhibit 17 --
9 11751 and 11752 that we just looked at; isn't it?
10 A. Oh, I don't know. I couldn't --
11 Q. Just don't know; is that right?
12 A. No, I couldn't say that, sir. If I'd read what
13 you read, I couldn't describe that as being contrary
14 to what was said there at all.
15 Q. You couldn't.
16 A. No, I could not. I'm not a scientist and I
17 found that very complex. I can tell you this is what
18 Dr. Ellis told me, and I believe her; she's a very
19 fine scientist.
20 Q. Well if you --
21 A. And I have no doubt whatsoever about the truth
22 behind this.
23 Q. But we just read about the form of the nicotine
24 getting there faster when pH is raised; didn't we,
25 sir?

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6000

1 A. Well could you take me back to that, please,
2 sir.
3 Q. Sure. Would you go back to Exhibit 17 -- or
4 11752.
5 A. 11752.
6 Q. And I will direct your attention to the second
7 paragraph, halfway through it. Well let's start up
8 above. We'll read it again.
9 "The argument that bases" --
10 Remember, I asked you to assume that a base is
11 ammonia?
12 A. Yes.
13 Q. -- "are added to increase the nicotine delivery
14 above normal levels is entirely specious." Okay?
15 "Specious" means false; correct?
16 A. Yes.
17 Q. And the delivery is the amount of nicotine;

18 correct? That's what you said earlier.
19 A. Well you asked me to assume that, I think. So I
20 think that's a fair assumption, but I'm not going to
21 quibble over it.
22 Q. "The same amount of nicotine is delivered
23 whether the smoke is acidic, basic, or neutral." Do
24 you see that?
25 A. Yes, I see that.

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6001

1 Q. "Only the form, not the amount of nicotine is
2 changed." Correct?
3 A. That's what it says, yes.
4 Q. "To illustrate, a study was conducted on
5 nicotine aerosols, where subjects inhaled the same
6 amounts of nicotine at pHs of 5.6, 7.5 and 11.0." Do
7 you see that?
8 A. Uh-huh. Yes, I do.
9 Q. "It was found that higher peak concentrations of
10 nicotine in blood were achieved at higher pHs."
11 Correct?
12 A. Yes, that's what it says.
13 Q. "Since the amounts of inhaled nicotine were the
14 same, the results indicate that the higher the pH,
15 the more rapidly nicotine enters the blood system."
16 Isn't that what it says?
17 A. "...enters the blood stream."
18 Q. "Blood stream." Isn't that what it says?
19 A. That's what it says, yes.
20 Q. Now let's go back to your testimony, sworn
21 testimony in front of Congress.
22 A. Uh-huh.
23 Q. "But I'm also told that the ammonium compounds
24 that are used in the cigarettes we sell do not cause
25 the amount of nicotine to rise." Do you see that?

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6002

1 A. Yes, I do see that.
2 Q. And we said that that would be the delivery;
3 correct?
4 A. Well I think you said that. I see here it says
5 "delivery" and not "amount," actually.
6 Q. Well, and -- and you accepted --
7 A. Well --
8 Q. You accepted that; didn't you, sir?
9 A. Well I did, but now I'm beginning to wonder if
10 there's something I don't understand here.
11 Q. Well --
12 A. If there is a difference between the two.
13 Q. Let's go on a minute, sir.
14 A. Hmm.
15 Q. "They do not cause the amount of nicotine
16 absorbed by the lung to rise. It does change the
17 form -- it does not change the form of nicotine that
18 goes to the brain." You said that; right?
19 A. That's what I said, yes.
20 Q. Who told you that?
21 A. Dr. Ellis.
22 Q. When did she tell you that?

23 A. Before I went to Congress.
24 Q. When it gets into the bloodstream, is it
25 buffered?

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6003

1 A. I have no idea, sir. I don't know what that
2 means, "buffered."
3 Q. Did you ask?
4 A. No, I didn't. I wouldn't think to ask it
5 because I don't know what it means.
6 Q. Did she explain anything about that to you?
7 A. I don't recall that, no. I don't recall that.
8 Q. Did she tell you that, "Mr. Bible, when you
9 ammoniate, you get the nicotine into the blood system
10 faster, but once it's into that bloodstream, it is
11 buffered by the blood and so it doesn't change on the
12 way up?" Did she tell you that?
13 A. I don't recall that, sir.
14 Q. Did she tell you, "Now if you answer that way,
15 you won't be stating a mistruth?"
16 A. If I answer what way?
17 Q. The way that I just said. You won't be stating
18 a mistruth, but you won't have to answer about
19 whether --
20 A. No, no, that's --
21 Q. Excuse me, let me finish.
22 A. Sorry.
23 Q. -- but you won't have to say whether or not we
24 ammoniate to get it into the blood quicker. Did she
25 tell you that?

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6004

1 A. No, she never said anything like that to me at
2 all.
3 Q. And she never gave you this document, did she,
4 sir?
5 A. Which document, sir?
6 Q. The document we've just looked at, 11752.
7 A. No, I don't --
8 I've not seen that before. And as I said, I
9 really feel quite incapable of interpreting it.
10 Q. Well did you offer to have Dr. Ellis testify on
11 this issue and produce all of the documents that were
12 in Philip Morris's files regarding this?
13 A. I think I've offered for my chief scientist to
14 elaborate on any points that were made. In fact it
15 may have been in that testimony there. But I have
16 certainly offered that, yes.
17 Q. With all of the internal documents?
18 A. I think I said at that congressional hearing we
19 are releasing all documents which we started to
20 release on the Internet last Friday. I think you
21 referred to that.
22 Q. You didn't release 39,000 of those documents;
23 did you?
24 A. That's right. They're privileged documents.
25 Q. They have been found by a special master not to

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1 be privileged; correct?

2 MR. BLEAKLEY: Objection, Your Honor, that
3 is highly prejudicial and irrelevant.

4 THE COURT: Sustained.

5 MR. BLEAKLEY: Move to strike it.

6 THE COURT: That question will be stricken.
7 The jury is instructed to disregard that.

8 BY MR. CIRESI:

9 Q. Sir, how many of your documents have you said
10 you will turn over?

11 A. When I talked to Congress?

12 Q. Yes.

13 A. I think we said there are some 30 million pages
14 of documents here in Minnesota that we will be
15 releasing.

16 Q. And you had never agreed to release those
17 documents before you went to Congress; correct?

18 A. I --

19 That's right, yes. Yes.

20 Q. And those documents relate back to over 40 years
21 of the industry's conduct; correct?

22 A. I don't know how far they go back, but I think
23 they go back a long time, yes.

24 Q. And they go back and show what the industry knew
25 and when they knew it and what they did about it;

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1 correct?

2 A. I'd have thought that's a fair characterization.
3 I've not read them, sir, there are so many. But as I
4 said, I'm looking forward.

5 Q. You're looking forward to read them?

6 A. I'm looking forward --

7 Q. Oh. I --

8 A. -- to resolve the issues surrounding this
9 industry and my company, sir.

10 Q. Well we'll -- we'll get to that in a little bit,
11 sir.

12 A. Uh-huh.

13 Q. And I know you're looking forward because you've
14 testified to that; haven't you?

15 A. I have.

16 Q. And we looked at how you were looking forward
17 based on the article in the Wall Street Journal and
18 your 1994 annual report. We looked at that; didn't
19 we?

20 Q. The annual report, yes, that's right, sir.

21 Q. And you put in there that you had never settled
22 a case; isn't that right?

23 A. That's right, sir. Yes.

24 Q. And when all the documents started coming out,
25 things changed; didn't they, sir?

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

1 A. What do you mean by that, sir?

2 Q. What I mean by that is you started settling some
3 cases; didn't you?

4 A. We've settled some cases lately, yes, we have.
5 Q. Yes.
6 A. But that was in order to make sure that the
7 proposed resolution which we've agreed with states
8 attorneys generals were clear and we'll have, I
9 think, a good pathway for national legislation to be
10 legislated -- or enacted.
11 Q. Yes, and --
12 A. And the attorneys general wanted --
13 Q. Sir.
14 A. -- to settle them, too.
15 Q. Are you done?
16 A. I am, yes.
17 Q. Now those settlements came about after documents
18 were disgorged by your companies and the others that
19 had never before seen the light of day; correct?
20 A. Of that I'm not sure.
21 Q. You don't know?
22 A. No, I don't.
23 Q. Well you just testified that you're going to
24 release documents that had never before been
25 released; isn't that right?

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6008

1 A. I think you asked me if they'd not been
2 released. I said yes, I think that's right. But I
3 just don't know, sir.
4 Q. Oh.
5 A. I'm not trying to quibble with you, I just don't
6 know.
7 Q. I know you're not trying to quibble. I'm not
8 trying to quibble with you either.
9 A. Well thank you.
10 Q. But just a bit ago you said they've never been
11 released; isn't that right? Now maybe that's a
12 quibble, but --
13 A. The 30 million pages?
14 Q. Yes.
15 A. You really are confusing me.
16 Q. I don't want to confuse you, Mr. Bible.
17 A. Well please, if you could be very clear, I will
18 try my very hardest to answer your questions exactly,
19 clearly. So please if you would repeat them.
20 Q. I will go back for you --
21 A. Thank you.
22 Q. -- so we are not quibbling and you understand
23 it.

24 Documents were released on Friday that had never
25 before been released to the public; correct?

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6009

1 A. Well I think that's correct.
2 Q. And those documents came from the Minnesota
3 depository; correct?
4 A. Yes, that's right.
5 Q. And the documents were placed in the Minnesota
6 depository as a result of this lawsuit; correct?
7 A. I believe that's correct.
8 Q. And documents were placed in England in a

9 depository; correct?
10 A. I believe that's correct.
11 Q. And those documents have not been released yet
12 on the Internet.
13 A. I -- I don't know about that, sir.
14 MR. CORRIGAN: Objection, Your Honor,
15 that's the subject of a pending motion before the
16 court.
17 THE COURT: And do you want the answer
18 stricken, counsel?
19 MR. CORRIGAN: I was not able to hear the
20 answer, Your Honor, because I was making an
21 objection.
22 THE COURT: I wasn't either because you
23 interfered. We've been through this before. I'll
24 sustain your objection and strike his answer,
25 whatever it may have been.
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6010
1 MR. CORRIGAN: Thank you.
2 THE COURT: Okay.
3 BY MR. CIRESI:
4 Q. Now, these documents that have been discovered
5 over the past four years in this case were provided
6 to the other states; weren't they?
7 A. I don't know that, sir.
8 Q. Have you heard the term "the Minnesota select
9 documents?"
10 A. Yes. Congressman Bliley raised them with me,
11 yes.
12 Q. He did.
13 A. Yes, he mentioned that. I didn't know what he
14 was talking about, frankly.
15 Q. And Congressman Bliley -- I'm not talking about
16 recently, but a while back -- subpoenaed some
17 documents; didn't he?
18 A. Yes, he did.
19 Q. And those were from Minnesota; correct?
20 A. I believe that's right.
21 Q. And those were turned over; weren't they?
22 A. I believe they were, yes.
23 Q. And they led to the subsequent hearings that you
24 went to; isn't that correct?
25 A. Well I don't know if they led to the hearings or
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6011
1 not. I don't know that's the case.
2 Q. You and others were asked about those documents;
3 weren't you?
4 A. At the -- at the congressional hearing?
5 Q. Yes.
6 A. I can't recall that.
7 Q. But it was at those hearings where you first
8 said publicly that nicotine was addictive; isn't that
9 right, sir?
10 A. I made my position clear -- or our company's
11 positions clear at that congressional hearing.
12 Q. Cigarettes were addictive.
13 A. Well would you like me to say exactly what I

14 said?

15 Q. You may say exactly what you said, sir.

16 A. Well thank you, because I would like to be able
17 to read it. We went public with this statement in
18 October 1997 and we said on the subject of addiction
19 that we recognize that nicotine as found in cigarette
20 smoke has mild pharmacological effects and that under
21 some definition cigarette smoking is addictive. The
22 word "addiction" has been and is currently used
23 differently by different people in different
24 contexts, and the definition of the term has
25 undergone significant changes over the past several

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6012

1 decades. In 1964, for example, the Advisory
2 Committee to the Surgeon General of the United States
3 concluded that smoking, although habit-forming, did
4 not fit within its definition of addiction. However,
5 in 1988 the Surgeon General redefined the term and
6 concluded that smoking is addictive. We have not
7 embraced those definitions of addiction which do not
8 include historically accepted and objective criteria
9 such as intoxication and physical withdrawal as
10 important markers. We acknowledge that our views are
11 at odds with those of the public health community,
12 but in the last analysis there is little point to a
13 continuing public debate about the definition of a
14 word used both colloquially and technically to
15 describe many different kinds of behavior. We
16 continue to believe that people can quit smoking if
17 they resolve to do so, but we recognize that it can
18 be difficult to quit. Accordingly, to ensure there
19 is a single consistent public health message on the
20 issue of addiction, we will refrain from debating the
21 issue other than is necessary to defend ourselves and
22 our opinions in the courts and other forums in which
23 we are required to do so, and we will also defer to
24 the judgment of the public health authorities as to
25 what health warning messages concerning addiction

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6013

1 will best serve the public interest as reflected in
2 the proposed new health warnings. That's the
3 statement.

4 Q. Who wrote that for you?

5 A. I beg your pardon, sir?

6 Q. Who wrote that for you?

7 A. That was drawn up, I think, by our scientists
8 and our lawyers together, and myself.

9 Q. Did they use the internal documents of Philip
10 Morris to draw it up?

11 A. I have no idea, sir.

12 Q. Now, they said that in 1964 the Surgeon General
13 said it was habituation and not addictive; correct?

14 A. I think he said it was habit-forming.

15 Q. Habit-forming. And you saw in your own
16 deposition you recognized that after all kinds of
17 internal secret documents came out, the FDA took a
18 different position on nicotine and its addictiveness;

19 isn't that right? In cigarettes.
20 A. Could you remind me what I said, please?
21 Q. I certainly will, sir. Do you have your
22 deposition in front of you?
23 A. Yes.
24 Q. Would you look at page 45.
25 A. Mine starts at page 48 actually.

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6014

1 Q. Your deposition, sir.
2 A. Oh, my deposition. Sorry.
3 Q. Do you remember the question?
4 A. Yes.
5 Q. "And I place before you Exhibit 7-A, which is
6 the executive summary, and I'd ask you, please, sir,
7 kindly turn to page X. Are you aware that the Food
8 and Drug Administration, after a considerable period
9 of taking testimony, concluded that 'There is a
10 emergence of scientific consensus that cigarettes and
11 smokeless tobacco cause addiction to nicotine and the
12 disclosure of thousands of pages of internal company
13 documents detailing that these products are intended
14 by the manufacturers to affect the structure and
15 function of the human body. This new evidence
16 justifies the agency's determination that cigarettes
17 and smokeless tobacco are delivery systems for the
18 drug nicotine.'
19 "Now my question to you, sir, is, are you
20 broadly aware that they made that finding?
21 "Answer: Yes, I am."
22 Now you gave that under oath.
23 A. Yes, that's right.
24 Q. And I think you said, oh, it was more like six
25 months ago, when I asked you if it was seven.

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6015

1 Remember that?
2 A. You mean this morning.
3 Q. Yes.
4 A. Well yes. Isn't it six months ago?
5 Q. Now --
6 A. August.
7 Q. In 1964 did the tobacco companies provide all
8 their internal documents to the Surgeon General
9 regarding nicotine and its addictiveness?
10 A. Which year, sir?
11 Q. 1964.
12 A. Not to my knowledge. I don't know.
13 Q. And shortly after the 1964 Surgeon General's
14 report came out, did the World Health Organization
15 change its definition of addiction?
16 A. I don't know.
17 Q. Have you asked that question?
18 A. I don't think I have, sir.
19 Q. In 1988 did the Surgeon General find that
20 nicotine is addictive and cigarette smoking is
21 addictive?
22 A. Yes, I believe he did.
23 Q. And --

24 A. As I have said in my statement.
25 Q. -- in 1988 did the defendants, your company and
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6016

1 the other manufacturers of cigarettes, provide to the
2 Surgeon General all of the documents you had
3 internally regarding the addictiveness of cigarette
4 smoking?

5 A. I don't know, sir.

6 Q. Nobody's ever told you they did.

7 A. No, nobody's ever told me they have.

8 Q. The fact is those documents didn't come out
9 until after this lawsuit was started; isn't that
10 right, sir?

11 A. Well I don't know, but it may be a fair
12 assumption.

13 Q. Let's take a look at some of the documents your
14 company had over the years --

15 A. Uh-huh.

16 Q. -- that were not provided to public health
17 authorities.

18 MR. BLEAKLEY: Your Honor, we've going for
19 about an hour and a half and it's a quarter to 1:00.
20 I wonder if this would be an appropriate time to
21 break for lunch.

22 THE COURT: I think it's been about an hour
23 and 15 minutes, but I think we can break for lunch.

24 We'll reconvene at 10 minutes after 2:00.

25 THE CLERK: Court stands in recess.

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6017

1 (Recess taken.)
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1 AFTERNOON SESSION.
2 THE CLERK: All rise. Court is again in
3 session.
4 (Jury enters the courtroom.)
5 THE CLERK: Please be seated.
6 THE COURT: Counsel.
7 MR. CIRESI: Thank you, Your Honor.
8 Good afternoon, ladies and gentlemen.
9 (Collective "Good afternoon.")
10 BY MR. CIRESI:
11 Q. Good afternoon, Mr. Bible.
12 A. Good afternoon, sir.
13 Q. When we recessed, I said we'd like to visit with
14 you a little bit about the Philip Morris documents
15 regarding nicotine and addiction. Do you recall
16 that, sir?
17 A. Yes, I do.
18 Q. Can you direct your attention to Exhibit 10255,
19 which is in volume one, sir. Do you have it, sir?
20 A. Yes, I do.
21 Q. All right. And you see this is a Philip Morris
22 interoffice correspondence marked "PERSONAL &
23 CONFIDENTIAL" dated August 12th, 1980; correct?
24 A. Yes, correct.
25 Q. And it's to Dr. R. B. Seligman and directors;
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6019

1 correct?
2 A. Yes.
3 Q. Who are directors?
4 A. Who are the directors?
5 Q. Yes.
6 A. Today or then do you mean?
7 Q. That would be the board of directors; correct?
8 A. Well I don't know. I would --
9 That's what I would imagine it to mean.
10 Q. Okay. And this is back in 1980, and it's a memo
11 from Dr. Osdene; correct?
12 A. Yes, it is.
13 Q. And you know Dr. Osdene testified here by way of
14 deposition.
15 A. I knew he came -- or I knew he testified, yes.
16 Q. Okay. And the subject of this is "Evaluation of
17 Major R&D Programs;" correct?
18 A. Yes.
19 Q. So the board was being advised of major R&D
20 programs that were being suggested by Dr. Osdene and
21 which he felt were in order of the highest priority;
22 correct?
23 A. Well yes. I would just perhaps qualify what I
24 said earlier. You -- I don't know if that would be
25 the board of directors or directors of Philip Morris
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6020

1 U.S.A. where many people have titles, directors of
2 the particular function.
3 Q. Sir --
4 A. So I don't know. It could be and it could not

5 be, I just don't know.
6 Q. Fair enough. It's either the directors of
7 Philip Morris U.S.A. or the board of directors;
8 correct?
9 A. That would be right, yes.
10 Q. And number five, do you see that, "Nicotine
11 Program?"
12 A. Yes, I do.
13 Q. "This program includes both behavioral effects
14 as well as chemical investigation. My reason for
15 this high priority is that I believe the thing we
16 sell most is nicotine." Do you see that?
17 A. Yes, I do.
18 Q. Now did Philip Morris, to your knowledge, ever
19 publicly advise consumers that the thing they sell
20 most is nicotine?
21 A. Not to my knowledge, no.
22 Q. Has it ever so advised the public during the
23 course of your tenure as CEO and chairman?
24 A. No, because I believe we sell cigarettes and
25 other products.

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6021

1 Q. Okay. It has never so advised; is that correct?
2 A. That's correct, sir, yes.
3 Q. Can you direct your attention, sir, to Exhibit
4 18 -- before we --
5 Let me ask you one thing about this. Did Philip
6 Morris ever provide this to the Surgeon General?
7 A. Which, sir?
8 Q. Exhibit 10255.
9 A. I don't know.
10 Q. Is this one of the documents that just was
11 recently released last Friday?
12 A. Well I don't know.
13 Q. Well if it was part of the Minnesota documents
14 that you produced over the last four years, is it
15 fair to assume that it was released last Friday?
16 A. Well I would have thought so, it's one of the 30
17 million pages, yes.
18 Q. Well you didn't have 30 million pages in there;
19 did you, sir?
20 A. No, but I thought all the documents totaled 30
21 million pages.
22 Q. Do you know how many there were here in
23 Minnesota alone of those what you call 30 million?
24 A. No, I don't. I thought they were all here in
25 Minnesota actually.

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6022

1 Q. All right. Are you aware of a depository in
2 England?
3 A. I've read about that. Certainly Philip Morris
4 doesn't have a -- doesn't have a depository in
5 England.
6 Q. And how many Philip Morris documents were
7 provided to the Minnesota depository, if you know?
8 A. No, I don't know.
9 Q. Now if this was one of those, then the first

10 time it would have been made public would have been
11 on the Internet last Friday; correct?
12 A. If it was one of those.
13 Q. Please direct your attention, then, to Exhibit
14 18089, which would be in volume two, sir.
15 A. Yes, I have that.
16 Q. Now you know who Dr. Dunn is?
17 A. I've heard his name.
18 Q. He was in the research and development
19 department at Philip Morris; correct?
20 A. Yes, that's my understanding.
21 Q. For a long time; correct?
22 A. I don't know.
23 Q. If you could, sir, would you direct your
24 attention --

25 This is called, by the way, "MOTIVES AND
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6023

1 INCENTIVES IN CIGARETTE SMOKING;" correct?
2 A. Yes, that's the title.
3 Q. And have you ever seen this document before?
4 A. No. It means nothing to me. I don't recollect
5 ever seeing it.
6 Q. All right. Let me represent to you that it's
7 Dr. Dunn's report on a meeting that took place among
8 25 scientists on the Dutch side of St. Martin in
9 1972. Can you accept that, sir?
10 A. Well I'll accept that, certainly.
11 Q. All right. And if you would turn, then, to page
12 four.
13 A. Yes, I have that.
14 Q. All right. And I'd also like to represent to
15 you that the San Martin conference was called by The
16 Council for Tobacco Research. Can you assume that?
17 A. Well if you tell me that, I'll assume that, yes.
18 Q. Well why don't you turn to the previous page and
19 you'll see that it was. Second full paragraph.
20 A. That page --
21 Page three?
22 Q. Page three, yes. The San Martin conference was
23 called" --
24 A. Yes, that's what it says.
25 Q. All right. Now turn to page four then, sir.

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6024

1 A. Uh-huh.
2 Q. Now do you see the paragraph that starts, "The
3 majority of the conferees would go even further and
4 accept the proposition that nicotine is the active
5 constituent of cigarette smoke. Without nicotine,
6 the argument goes, there would be no smoking. Some
7 strong evidence can be marshalled to support this
8 argument." See that?
9 A. Yes, I do.
10 Q. Now do you know if the scientists who were
11 gathered on San Martin were provided with all the
12 internal documents of the defendant manufacturing
13 companies?
14 A. Sir, I have no idea.

15 Q. Now Dr. Dunn reports, "No one has ever become a
16 cigarette smoker by smoking cigarettes without
17 nicotine." Do you see that?
18 A. Yes, I do.
19 Q. "Most of the physiological responses to inhaled
20 smoke have been shown to be nicotine-related." Do
21 you see that?
22 A. Yes, I do. That's what it says.
23 Q. Now you mentioned the other day that Philip
24 Morris had had a cigarette that had .01 milligrams of
25 nicotine; correct?

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6025

1 A. I think that's what it had, yes.
2 Q. And it was a flop; wasn't it?
3 A. It did not succeed.
4 Q. And when it first came out people bought it,
5 though; didn't they?
6 A. I think people bought it and tried it. It was
7 in test market.
8 Q. And if you go down to number three there --
9 A. Yes.
10 Q. -- "Despite many low nicotine brand entries into
11 the marketplace, none of them have captured a
12 substantial segment of the market. In fact, critics
13 of the industry would be well to reflect upon the
14 indifference of the consumer to the industry's
15 efforts to sell low delivery brands. 94 percent of
16 the cigarettes sold in the U.S. deliver more than 1
17 milligram of nicotine. 98.5 percent deliver more
18 than .9 milligrams. The physiological response to
19 nicotine can readily be elicited by cigarettes
20 delivering in the range of 1 milligram of nicotine."
21 Do you see that, sir?
22 A. Yes, that's what it says.
23 Q. Now have you ever discussed with your scientists
24 whether they designed the cigarettes so that there
25 would be a threshold value of nicotine in those

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6026

1 cigarettes?
2 A. No, we've never -- I've never discussed that,
3 and I don't think we've ever done that. But I can
4 say --
5 When was this, sir, back in 19 --
6 Q. 1972.
7 A. Right.
8 Q. And you've answered my question, sir.
9 A. I did want to make a comment.
10 Q. Well again -- and I'm not allowed to comment,
11 but I would point out, sir, that your lawyer will
12 have a chance to ask you any questions he wants to.
13 A. Thank you.
14 Q. All right?
15 If you go on to the next page then, I want to
16 know if you agree with this statement: "Why then is
17 there not a market for nicotine per se, to be eaten,
18 sucked, drunk, injected, inserted or inhaled as a
19 pure aerosol? The answer, and I feel quite strongly

20 about this, is that the cigarette is in fact among
21 the most awe-inspiring examples of the ingenuity of
22 man." Would you agree with that?

23 A. Well that's what it says. I don't know that I
24 would agree with it.

25 Q. Okay. Do you disagree with that?

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6027

1 A. Do I disagree with it, that it's one of the most
2 awe-inspiring examples of the ingenuity of man? I
3 disagree with that.

4 Q. Okay. The next statement says, "The cigarette
5 should be conceived not as a product but as a
6 package. The product is nicotine." Do you agree
7 with that?

8 A. No, I don't agree with that. I believe the
9 product is a cigarette.

10 Q. Now if you go further, "Think of the cigarette
11 pack as a storage container for a day's supply of
12 nicotine." Do you see that?

13 A. Yes, I do.

14 Q. And then Dr. Dunn goes on and states why that
15 is. He gives two reasons; correct?

16 A. Yes, he does.

17 Q. Then he says, "Think of the cigarette as a
18 dispenser for a dose unit of nicotine." Do you see
19 that?

20 A. Yes, I see that. That's what it says.

21 Q. And then he goes on and states the reasons for
22 that; correct?

23 A. Yes, he gives three reasons.

24 Q. Okay. And what he's talking about here is a
25 drug-delivery device; isn't he?

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6028

1 A. Well I don't know if I'd call it that, sir.
2 He's describing a cigarette, I think.

3 Q. And he's describing it in terms of a
4 drug-delivery device; wouldn't you agree?

5 A. Well no, I would probably argue with that.

6 Q. Okay. Let's go on to the next page.

7 "Think of a puff of smoke as the vehicle of
8 nicotine." Do you see that?

9 A. Yes, I do.

10 Q. And then next, "The smoker has wide latitude in
11 further calibrations: puff volume, puff interval,
12 depth and duration of inhalation. We have recorded
13 wide variability in intake among smokers. Among a
14 group of pack-a-day smokers, some will take in less
15 than the average half-pack smoker, some will take in
16 more than the average two-pack-a-day smoker." Do you
17 see that?

18 A. Yes, I do.

19 Q. Now would you agree that what is being described
20 there is the self-administration of nicotine?

21 A. No, I wouldn't. I would simply say that smokers
22 smoke cigarettes in different ways.

23 Q. So you just wouldn't agree with the
24 character -- caricature or description of the

25 cigarette as a drug-delivery device; correct?
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1 A. I disagree with that, yes.
2 Q. Let's go back, then, to Exhibit -- strike that.
3 Let me ask you one other thing. Do you know if
4 this document was provided to the Surgeon General?
5 A. No, I don't know that, sir.
6 Q. Was it provided to the FDA?
7 A. I don't know. I don't know. I wasn't here in
8 1970.
9 Q. Was the previous document we looked at from Dr.
10 Seligman, which went to the -- excuse me, Dr. Osdene,
11 which went to Dr. Seligman and the directors,
12 provided to the FDA?
13 A. No, I don't know that either, sir.
14 Q. Can we then go to Exhibit 11559, which is one
15 that we looked at briefly this morning. You recall
16 that's the one that dealt with TABLE?
17 A. Well would you let me get to it?
18 Q. Sure.
19 A. I'll see if I can recall it.
20 Yes, I have it.
21 Q. Okay. And that's by Ms. Reuter; correct?
22 A. Yes, that's correct.
23 Q. And you recall we discussed that briefly this
24 morning.
25 A. Yes.

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6030

1 Q. Now Dr. Dunn, he was in the research and
2 development department; correct?
3 A. Yes.
4 Q. Now if we go to the first page, you'll recall we
5 discussed that this morning, that dealt with the
6 issues of cocaine and morphine and atropine and
7 getting to the brain in eight to 10 seconds. Do you
8 recall that testimony?
9 A. Yes, I remember the part about cocaine, quinine,
10 morphine, yes.
11 Q. Okay. And if you go to the next page, Ms.
12 Reuter also describes the cigarette as a
13 nicotine-delivery device; doesn't she?
14 A. Yes, she does.
15 Q. "Nicotine delivery devices range from snuff,
16 chewing tobacco, cigars, pipes and conventional
17 cigarettes to unique smoking articles, chewing gum,
18 patches, aerosol sprays and inhalers." Correct?
19 A. Yes, that's what she says.
20 Q. Now, do you understand what a competitive
21 analysis is?
22 A. It would depend upon the context, sir, but it --
23 I would have thought that in general terms you would
24 be looking at what your competitors are doing.
25 Q. And you're looking at what your competitors are

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1 doing in order to determine whether or not you might
2 want to be in competition with them; correct?
3 A. That would be a fair analysis, yes.
4 Q. One of the reasons to do that is you'd want to
5 protect your markets; correct?
6 A. Your markets, yes. You might want to grow your
7 market share.
8 Q. You might want to grow your market share;
9 correct?
10 A. Correct.
11 Q. And the reason you want to do that is you want
12 to develop revenue or enhanced revenue; correct?
13 A. Yes. That's one of my jobs.
14 Q. And in order --
15 And you want to do that in order to generate
16 profits; correct?
17 A. Correct, sir, uh-huh.
18 Q. And in doing so, you want to make a safe
19 product; correct?
20 A. I'd like to, yes.
21 Q. Well you want to; don't you?
22 A. I'd like to, yes, sir.
23 Q. Is there a difference to you between liking to
24 and wanting to?
25 A. Oh, I don't see any difference, no.

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6032

1 Q. Now this is a competitive analysis; isn't it,
2 sir?
3 A. Well let me look at it, sir.
4 Q. Why don't you just look at the first page under
5 the word "TABLE."
6 A. Yes, that's what it's titled.
7 Q. Okay. Then if we go back to the page one, it
8 says "COMPETITIVE ANALYSIS" at the top; doesn't it?
9 A. It does.
10 Q. And then the page we were on that's on the
11 overhead right now, it says "COMPETITIVE ANALYSIS;"
12 correct?
13 A. It does.
14 Q. Indeed, if you look all the way through the
15 first part of this document, it all says "COMPETITIVE
16 ANALYSIS;" doesn't it?
17 A. That's what it's titled, yes.
18 Q. And on the front page it shows that the
19 competitive analysis is the first part of the
20 document, then organization is the second part, and
21 the production part of it will follow; correct?
22 A. That's what it says.
23 Q. Now if we go back to the page we were on, you'll
24 see that Ms. Reuter sets forth the nicotine-delivery
25 devices, the major producers, the target market, and

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6033

1 the motivation; correct?
2 A. Yes, those are the headings.
3 Q. And under "Cigarettes," the motivation is
4 "nicotine and smoking pleasure;" correct?
5 A. That's correct. That's what it says.

6 Q. And this was being prepared for management;
7 wasn't it, sir?
8 A. Yes, I think that's a fair --
9 Well I don't know, actually.
10 Q. Well --
11 A. It doesn't say to whom it was addressed.
12 Q. Competitive analyses are prepared for
13 management; are they not?
14 A. Well not necessarily. You could be doing it for
15 yourself. But I don't know who she prepared it for,
16 frankly.
17 Q. If you go back, then, to the page we were on,
18 which bears the Bates number 666.
19 A. Yes.
20 Q. Each one of those nicotine-delivery devices,
21 including cigarettes, sets forth the major producers,
22 the motivations and the target; isn't that right?
23 A. We have major producers, motivation, target,
24 yes.
25 Q. Okay. And if you go on to the next page we will
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6034

1 see that Ms. Reuter goes through a number of the
2 other nicotine-delivery devices; correct?
3 A. As she describes them, yes.
4 Q. And many of them deal with, on that page,
5 smoking cessation and nicotine reduction; don't they?
6 A. Yes.
7 Q. In fact, every single one on that page deals
8 with that; correct?
9 A. Well I don't think that's quite accurate, sir.
10 Q. Well they all have either reduction or smoking
11 cessation in the motivation for them; correct?
12 A. One or the other, yes.
13 Q. Yes. And we see that in the target market, it's
14 basically for men and women smokers or former smokers
15 or quitters; fair?
16 A. Yes, that's fair.
17 Q. And if we go on to the next page, sir, we look
18 at the market size of the competitive products;
19 correct?
20 A. Yes, that's the title.
21 Q. And cigarettes are by far the largest at 45
22 billion dollars; correct?
23 A. Yes, that's correct.
24 Q. And that's in 1991.
25 A. Yes, that's correct.

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6035

1 Q. And then there's an estimated 1992 nicotine
2 patch prescription sales; correct?
3 A. Yes, that's correct.
4 Q. Now if we look down at the bottom, then, there's
5 a report, narrative report by Ms. Reuter regarding
6 those competitive products; correct?
7 A. Well could I just read it to see what --
8 Q. Certainly. Certainly.
9 A. So how did you describe this?
10 Q. This is the "Competitive Products-Recent Trends"

11 as stated by Ms. Reuter; correct?
12 A. Yes, that's a fair summary.
13 Q. And she reports here that in the last five
14 years, the scientific community in both the United
15 States and Europe had been pursuing innovative
16 nicotine delivery systems to either replace or
17 transform the worldwide cigarette business as Philip
18 Morris knows it; correct?
19 A. As we know it, yes, that's what she says.
20 Q. And she talks about the majority of the patent
21 activity has been focused on transdermal and nasal
22 delivery systems, although more recent work has moved
23 into tablets and injectable nicotine; correct?
24 A. That's what it says, yes.
25 Q. And she points out that the primary motivation

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6036

1 for the products is smoking cessation through a
2 controlled, gradual reduction in nicotine delivery;
3 correct?
4 A. That's what it says, yes.
5 Q. Now when someone is addicted, do you know if
6 doctors prescribe for them serially-reducing products
7 of the addictive substance?
8 A. I don't know that.
9 Q. Never heard that.
10 A. No, I've not heard that. I don't know how it
11 works.
12 Q. Have you had any discussion regarding nicotine
13 patches at the board of Philip Morris?
14 A. Not to my knowledge, no.
15 Q. Never.
16 A. Not to my knowledge ever.
17 Q. Have you had any discussion about nicotine
18 patches and competitive products for cigarettes with
19 any of your managers?
20 A. I don't recall any at all, sir, no.
21 Q. Now Ms. Reuter, in this part of the report, goes
22 on to state that there are barriers that have
23 characterized the tobacco business; correct?
24 A. Barriers to entry.
25 Q. Barriers to entry. And that means barriers to

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6037

1 entry to the market; correct?
2 A. I'd have thought so.
3 Q. And the cigarette industry is known as an
4 oligopoly; correct?
5 A. I didn't know it was known as an oligopoly.
6 Q. Well it's --
7 At least it's referred to that by Ms. Reuter.
8 A. It's referred to her --
9 Q. "Oligopolistic" --
10 A. Yes, she --
11 Q. -- "tobacco industry."
12 A. She refers to that in that -- in that -- in
13 those words, yes.
14 Q. That means that there are very few providers of
15 the product in the market; doesn't it?

16 A. That's what it means. That isn't the case in
17 the tobacco industry, though, sir.
18 Q. That's what it means; isn't it, sir?
19 A. An oligopoly?
20 Q. Yes.
21 A. That would mean a few number.
22 Q. And in the United States, what percentage does
23 Philip Morris have of the domestic cigarette market?
24 A. Are you talking today or back when --
25 Q. Today.

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6038

1 A. Today? We have about 48 percent, I think.
2 Q. Forty-eight percent.
3 A. Uh-huh.
4 Q. And in 1992 --
5 A. Uh-huh.
6 Q. -- what did you have?
7 A. Well it -- it would be --
8 This is a bit of a guess, but around 42, I'd
9 say.
10 Q. Forty-two.
11 A. Hmm.
12 Q. And what did RJR have at that time?
13 A. Oh, I'd say about -- again a bit of a guess, but
14 around 32.
15 Q. Thirty-two.
16 A. Uh-huh.
17 Q. So between the two of you in 1992, you had about
18 70 percent of the market.
19 A. That would be roughly.
20 Q. Who was third at that time?
21 A. Well it would be fairly close. Probably Brown &
22 Williamson.
23 Q. And what did they have, sir?
24 A. Oh, I don't recall. My sense would be 14 or
25 something like that.

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6039

1 Q. Fourteen percent.
2 A. Uh-huh.
3 Q. So now we're up to 88 percent.
4 A. Yes.
5 Q. Who was next?
6 A. There would be Lorillard and American Brands, I
7 guess. And then --
8 Q. They had the balance of the market?
9 A. No. Then the Liggett & Myers, and then there
10 are a number of importers.
11 Q. Okay. What did American have?
12 A. I don't recall.
13 Q. But we do know that the top three had 88 percent
14 of the market.
15 A. It would be in that area, yes.
16 Q. Now today you said Philip Morris has
17 approximately 48 percent of the market; correct?
18 A. That's right.
19 Q. And what does RJR have today?
20 A. I'd say about 25 percent.

21 Q. And is Brown & Williamson still the third
22 largest?

23 A. Yes, it is.

24 Q. And what do they have?

25 A. I'd say about 16, 17 percent.

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6040

1 Q. Okay. So the top three now have about 80
2 percent; is that right?

3 A. Yes. But I should tell you that about two years
4 ago Brown & Williamson acquired one of the other
5 companies.

6 Q. Okay. That would be American; correct?

7 A. That's right.

8 Q. Now Ms. Reuter puts out here that "In addition,
9 the nature of competitive product development relies
10 on legal protections afforded the technological
11 innovation" --

12 A. Could you refer me to that, please, sir?

13 Q. Sure. It's right at the bottom, sir.

14 A. Of page four?

15 Q. Yes.

16 A. I'm sorry, I can't find it. Will you tell me
17 which page?

18 Q. The last paragraph, page four, second sentence.
19 "In addition" --

20 A. Oh, yes, I see it. I'm sorry.

21 Q. Do you know what she's referring to there?

22 A. No, I don't know what she's referring to.

23 Q. Were the competitive products regulated by the
24 FDA?

25 A. I don't know.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

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1 Q. Do you know if patches are regulated?

2 A. No, I don't know.

3 Q. Do you know if aerosol sprays or inhalers are
4 regulated in any way?

5 A. Which type of aerosol?

6 Q. Any type.

7 Nicotine aerosol. I'm sorry.

8 A. I didn't know that there are any.

9 Q. Okay. Can you direct your attention, then, to
10 the next page where Ms. Reuter goes into the
11 competitive analysis.

12 Now do you remember this morning when I first
13 asked you about TABLE, you weren't familiar with it?

14 A. Right.

15 Q. But you said you'd come out with a new
16 product -- or you were about ready to test market a
17 new product?

18 A. Yes. We have a new product that's in consumer
19 home testing, yes.

20 Q. And that's a product that is intended to
21 supplement the cigarette business?

22 A. I don't know what you mean by "supplement." It
23 would be a product in our tobacco business, yes.

24 Q. Is the tobacco heated or burned?

25 A. I described it this morning as tobacco being

1 heated.
2 Q. Heated.
3 A. Heated, yes.
4 Q. What's the name of the product?
5 A. Accord.
6 Q. Do you know if Accord came from the TABLE
7 project?
8 A. TABLE project?
9 Q. Yes.
10 A. I don't know, sir.
11 Q. All right. If you look at the competitive
12 analysis, in the very first part do you see where the
13 Premier cigarette is referred to, the one put out by
14 RJR in 1987?
15 A. Yes.
16 Q. And it's described there; is it not?
17 A. Yes, it is.
18 Q. And Ms. Reuter states that "In fact, only one
19 domestic company has attempted to commercialize a new
20 type of nicotine delivery device;" correct?
21 A. Yes, that's what she says.
22 Q. And it looked like a cigarette, but it consisted
23 of a carbon heat source, a reservoir of nicotine and
24 glycerol, and aluminum oxide pellets and a weakly
25 efficient filter system. Do you see that?

1 A. Yes, I do.
2 Q. And it was offered in two test markets and
3 didn't do well and was closed in early '89; correct?
4 A. Yes, that's what it says.
5 Q. But it had a number of key attributes; correct?
6 A. Yes, that's what it says.
7 Q. Zero biological activity; correct?
8 A. Right.
9 Q. And what's zero biological activity?
10 A. Well I don't know that I'm qualified to describe
11 that.
12 Q. That means that it wouldn't be cancer-producing;
13 doesn't it, sir?
14 A. Well I don't know. But if you tell me that's
15 what it means, I'm prepared to accept that.
16 Q. And no ashes, no minimal -- or minimal
17 sidestream smoke, and limited fire safety problems;
18 is that right?
19 A. That's what she says.
20 Q. And then in the next paragraph it's pointed out
21 that RJR, based on its patent activity, maintained a
22 strong commitment to new smoking devices; correct?
23 A. Well you went a bit quickly. Could I --
24 May I read it?
25 Q. Absolutely, sir.

1 A. Well yes. What did you --

2 How did you describe it? Or could I have your
3 question again, please?
4 Q. Sure.
5 MR. CIRESI: Could we have the question
6 back, please.
7 (Record read by the court reporter.)
8 A. Yes, that's what it says, yes.
9 Q. And it pointed out that Reynolds was not alone
10 in pursuit of a better cigarette; correct?
11 A. That's right, it says that.
12 Q. And it's pointed out in the next paragraph that
13 the pharmaceutical companies are pursuing substitute
14 nicotine-delivery devices in a range of formats;
15 correct?
16 A. Yes, it does say that.
17 Q. Now in the very next paragraph, then, it says
18 what Philip Morris has decided to do based on this
19 competitive analysis; doesn't it?
20 A. Well may I read it?
21 Q. Sure.
22 A. Thank you.
23 Yes, I've read it.
24 Q. All right. Now it's pointed out in there that
25 Philip Morris had chosen to pursue a
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1 nicotine-delivery device that like RJR's Premier,
2 continues the cigarette tradition of sucking on a
3 cylindrical mouthpiece to inhale flavorings and
4 nicotine from a tobacco-based product; correct?
5 A. That's what it says.
6 Q. And it says "The approach of heating rather than
7 burning the tobacco produces a cleaner, safer smoking
8 experience;: Correct?
9 A. That -- that's what it says, yes.
10 Q. "Known by the code name of Table, the product
11 has the potential to replace the conventional
12 cigarette - in much the same way that cigarettes
13 replaced chewing tobacco over a hundred years ago -
14 as a more socially acceptable form of tobacco use;"
15 correct?
16 A. That's what it says, yes.
17 Q. And the Accord is that cigarette; isn't it, sir?
18 A. Well I think probably she's described parts of
19 what Accord is, and this may well have been a paper
20 that was referring to the development of that
21 cigarette.
22 I should add that I don't believe this lady is
23 skilled in the scientific area at all.
24 Q. Well let me ask you something. At Philip
25 Morris, do you have employees writing competitive
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1 analyses for superiors and people in management who
2 are not skilled?
3 A. In scientific matters?
4 Q. Yes.
5 A. Yes, we do have people who are not skilled in
6 scientific matters.

7 Q. And do they utilize the resources available to
8 Philip Morris in writing the competitive analysis?
9 A. Well they should if they have need to.
10 Q. Yes. And so if Ms. Reuter had need to utilize
11 scientific resources available at Philip Morris, she
12 would do so in writing this competitive analysis;
13 wouldn't she?
14 A. Well I'd have thought she should have. I don't
15 know if she did.
16 Q. But throughout this competitive analysis, which
17 is a Philip Morris document, the cigarette is
18 referred to as a drug-delivery device; isn't it?
19 A. That was described as a -- I think a
20 nicotine-delivery device.
21 Q. And as you go through the balance of this
22 document, you'll see that there is a patent search
23 that's been conducted for other nicotine-delivery
24 devices; correct? Starts on the next page. It's
25 called "PATENT SEARCH."

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1 A. Yes. I don't know that it covers exclusively
2 nicotine though.
3 Q. All right. Well there's a patent search in any
4 event; correct?
5 A. That's quite right, yes.
6 Q. And you know that patent searches are utilized
7 to determine what the competition might be doing;
8 correct?
9 A. Yes, I do.
10 Q. And if the competition was trying to find a safe
11 way to deliver nicotine, Philip Morris would want to
12 know that; wouldn't they?
13 A. Yes, we would want to know that.
14 Q. And in fact that's what Ms. Reuter was doing
15 here; wasn't she?
16 A. I don't know what she was doing, actually.
17 Q. Have you ever seen a document in Philip Morris
18 that said, "Ms. Reuter, we don't call cigarettes
19 nicotine-delivery devices here because they're not
20 nicotine-delivery devices?"
21 A. No, I've not seen one.
22 Q. Okay. Do you know if this document was provided
23 to the FDA?
24 A. I -- I -- I don't know. It may well have been,
25 but I don't know.

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1 Q. Do you know if it was provided to the Surgeon
2 General?
3 A. I don't know.
4 Q. Isn't it a fact the first time it was made
5 public by Philip Morris was last Friday?
6 A. Well I don't know that either.
7 Q. Okay.
8 A. If it was amongst those documents, it would have
9 been made public last Friday, but I don't know if
10 that was the first time or not.
11 Q. If I represent to you, sir, that this was a

12 document that was produced in the Minnesota
13 litigation since 1994, would it be fair to assume
14 that the first time Philip Morris released it to the
15 public was last Friday when they put it on the
16 Internet?
17 A. It may be.
18 Q. Now other scientists at Philip Morris have
19 called the cigarette a potent pharmacological device;
20 have they not?
21 A. I've not heard that.
22 Q. Pardon me?
23 A. I don't think I've heard that.
24 Q. Can you direct your attention to Exhibit 10523.
25 A. Yes, I have that.

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1 Q. Now this is a document that's in evidence, it's
2 a handwritten note by Dr. Charles to Dr. Osdene.
3 These were individuals that you know to be in your
4 research and development department?
5 A. Yes, they are.
6 Q. And Dr. Charles was the manager of the
7 biochemistry group, vice-president of research?
8 A. I don't know what his title was.
9 Q. You know that Dr. Osdene was director of
10 research; don't you?
11 A. No, I don't know that. But I -- I know that
12 they were both prominent in the research and
13 development area.
14 Q. And do you see the date up there, it's
15 December -- or excuse me, February 23rd, 1982?
16 A. Well I -- I can't read that. It could be '82.
17 It's quite hard to read. But I -- I -- I won't
18 dispute it.
19 Q. All right. Let me see if I can help you, sir,
20 because I understand it's difficult to read.
21 A. Oh here, further down there's a reference to
22 '82.
23 Q. Okay. And this is the form in which the
24 document was produced by Philip Morris. Do you
25 understand that?

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1 A. Yes, I believe you.
2 Q. Okay. On February --
3 Well let me back up. "Comments on 'Future
4 Strategies for the Changing Cigarette,' National
5 Conference on Smoking and Health." Do you see that?
6 A. Yes.
7 Q. "On February 22nd, 1982 (the day of the 1982
8 Surgeon General's press conference on Smoking and
9 Health) you asked me to review the subject document
10 and provide you with comments. The comments below
11 are those of a concerned employee with a 20-year
12 association with PM R&D, of which the past 10 years
13 have been directly involved with smoking and health
14 related research. I consider myself well trained in
15 the biological and chemical sciences and qualified to
16 make the following comments which would be -- which

17 should be taken as constructive criticism with
18 suggestions as to how to approach the solution to
19 some of the problems. You may shred this document,
20 have it typed as is, incorporate the suggestion in a
21 position paper for upper management or use the
22 document in any way you see fit."

23 Now sir, let me read one more part before we go
24 on. "This company is in trouble. The cigarette
25 industry is in trouble. If we are to survive as a

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1 viable commercial enterprise we must act now to
2 develop responses to smoking and health allegations
3 from both the private and the government sectors."
4 Do you see that?

5 A. Yes, I do.

6 Q. Now Dr. Charles was a long-time employee of
7 Philip Morris; was he not?

8 A. Well I don't know how long he was there, but I
9 do remember him being around. Probably -- well he
10 was there when I first came to the United States, and
11 that's about 15 years ago.

12 Q. Okay. At least in 1982 he says he had already
13 been there 20 years; correct, sir?

14 A. Uh-huh.

15 Q. And how long after 1982 did he stay there?

16 A. Oh, I did --

17 I can't quite tell you that exactly. I would
18 say four or five years ago that he left.

19 Q. Four or five years ago?

20 A. Three or four years ago, something like that.

21 Q. So 1994.

22 A. Could be. I may have that wrong by a couple of
23 years.

24 Q. Can you direct your attention to the last page.

25 A. Yes.

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1 Q. I'm sorry, page four, which is the
2 second-to-the-last page.

3 A. Right, uh-huh.

4 Q. Down towards the bottom he says, "Let's face the
5 facts," doesn't he?

6 A. Yes, that's what it says.

7 Q. "Cigarette smoke is" -- and he underscores
8 "is" -- "biologically active." Correct?

9 A. Yes.

10 Q. That means it affects human beings in a
11 biological fashion; correct?

12 A. Well I would think that's right, uh-huh.

13 Q. And he says, "A. Nicotine is a potent
14 pharmacological agent. Every toxicologist,
15 physiologist, medical doctor and most chemists know
16 that. It's not a secret." Do you see that?

17 A. Yes, I do.

18 Q. Okay. He uses the word "potent;" correct?

19 A. Yes, he describes it as such.

20 Q. He doesn't say it's a mild pharmacological
21 agent; does he?

22 A. No.
23 Q. And he wrote this at a time where it wasn't
24 intended to be used in litigation as far as you know;
25 correct?

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1 A. I don't know why he wrote it.
2 Q. You don't. Well we know one reason he wrote it
3 is because his superior, Dr. Osdene, asked him to
4 review the Surgeon General's press conference on
5 smoking and health. That's right on the first page;
6 correct?
7 A. Yes, that's what he says.
8 Q. Okay. And if we go back, then, to page four, --
9 A. Uh-huh.
10 Q. -- "Cigarette smoke condensate applied to the
11 backs of mice causes tumors." Is that right?
12 A. That's what it says, yes.
13 Q. That's another fact he wants the company to
14 face; correct?
15 A. Yes. That's how it's described.
16 Q. Another thing he says is "Hydrogen cyanide is a
17 potent inhibitor of cytochrome oxidase - a crucial
18 enzyme in the energy metabolism of all cells." Do
19 you see that?
20 A. Yes, that's what it says.
21 Q. And that means it affects the enzymatic action
22 of cells; correct?
23 A. Well I presume so. I -- I really can't comment
24 on that.
25 Q. Do you know if it's in the cells where

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1 malignancy develops?
2 A. Yes, I understand that.
3 Q. Did Philip Morris in 1982 provide this type of
4 information to the Surgeon General?
5 A. I don't know, sir. I wasn't here in 1982.
6 Q. Do you know if this is another document that was
7 produced in the Minnesota litigation?
8 A. I don't know.
9 Q. Do you know if for the first time you disclosed
10 this to the world on the Internet last Friday?
11 A. Well I don't know that, sir.
12 Q. If it was produced in the Minnesota litigation
13 and it was one of the Minnesota select documents,
14 then it would have been on the Internet last Friday;
15 correct?
16 A. I believe so, yes.
17 Q. You made the decision to do that; didn't you,
18 sir?
19 A. Yes, I did, sir. I was one of the people that
20 made the decision to do that.
21 Q. You said, "Get the documents on the Internet;"
22 correct?
23 A. I said we would put the documents on the
24 Internet, yes.
25 Q. Now in 1988 the Surgeon General, as you said,

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1 found that nicotine was addictive; correct?
2 A. Yes, that's my recollection.
3 Q. And he compared it to cocaine; didn't he?
4 A. That's my recollection.
5 Q. Just as we saw in the TABLE document; correct?
6 A. Yes, that was also correct.
7 Q. Ms. Reuter mentioned cocaine in the TABLE
8 document; didn't she?
9 A. That's right, yes. As I said, though, she's not
10 a scientist, to the best of my knowledge.
11 Q. Did scientists work on the Surgeon General's
12 report in 1988?
13 A. I would expect so.
14 Q. And sir, can you turn to Exhibit 3820 in volume
15 one.
16 A. Yes, I have that.
17 Q. It's entitled "The Health Consequences Of
18 Smoking, NICOTINE ADDICTION, a report of the Surgeon
19 General;" correct?
20 A. Yes.
21 Q. And if you go to the next page, you'll see the
22 major conclusions; correct?
23 A. Yes.
24 Q. "1. Cigarettes and other forms of tobacco are
25 addicting;" correct?

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1 A. Yes.
2 Q. "2. Nicotine is the drug in tobacco that causes
3 addiction." Correct?
4 A. That's what it says, yes.
5 Q. "3. The pharmacologic and behavioral processes
6 that determine tobacco addiction are similar to those
7 that determine addiction to drugs such as heroin and
8 cocaine." Correct?
9 A. That's what it says, yes.
10 Q. And there were eminent scientists that
11 participated in the investigation which led to the
12 1988 Surgeon General's report; correct?
13 A. I don't know.
14 Q. Have you ever asked anyone at your company
15 whether there were eminent scientists that
16 contributed to that report?
17 A. No, I have not.
18 Q. You do know that Philip Morris did not
19 contribute its internal documents to the Surgeon
20 General in 1988 so the scientists could consider
21 those documents in arriving at their opinion; don't
22 you?
23 A. Well I don't know that, but I don't think we
24 did.
25 Q. Well you know that you didn't because the first

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1 time all these internal documents got out was last
2 Friday when you made the decision with other people.

3 You just testified to that; didn't you?
4 A. That they were made public, yes.
5 Q. Yeah. That's the first time; correct?
6 A. That they were made public.
7 Q. Now the reason that Philip Morris didn't want to
8 say that nicotine was a drug is because it felt there
9 would be dangerous FDA implications; isn't that
10 right?
11 A. Well that's not my understanding, sir.
12 Q. Could you turn to Exhibit 10539. I know this is
13 difficult to read, sir, but it's the best document we
14 got from your company of this document. Okay? It's
15 entitle "CONFIDENTIAL" at the top, do you see that?
16 A. Yes, I do.
17 Q. It's dated February 19th, 1969?
18 A. Yes.
19 Q. It's to Dr. Wakeham from Dr. Dunn; correct?
20 A. Yes.
21 Q. And it refers to "Jet's Money Offer;" correct?
22 A. That's the subject, yes.
23 Q. Do you think that's Jett Lincoln?
24 A. Well I expect so, but I don't know.
25 Q. And would the money offer be the idea of

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1 devoting funds to research and development at Philip
2 Morris?
3 A. I would not have any idea, sir.
4 Q. Could you direct your attention to the third
5 paragraph, and I'll read it for you. "I would be
6 more cautious in using the pharomic-medical model --
7 do we really want to tout cigarette smoke as a drug?
8 It is, of course, but there are dangerous FDA
9 implications to having such conceptualization go
10 beyond these walls." Do you see that?
11 A. Yes, I do.
12 Q. And the walls were the walls of Philip Morris;
13 correct?
14 A. Well I would expect that's what he's meaning,
15 yes.
16 Q. And the dangerous FDA implications would be that
17 if Philip Morris said we're selling a drug, the FDA
18 would look at regulating it; wouldn't they?
19 A. I don't know what he meant when he said that,
20 sir.
21 Q. It's fair to assume that's what he meant; isn't
22 it, sir?
23 A. One could assume that, but I don't know what he
24 meant.
25 Q. Well did Philip Morris ever go to the FDA at any

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1 time and say, "We're selling a drug?"
2 A. Not to my knowledge.
3 Q. And did Dr. Ellis tell you when you met with her
4 that nicotine had physiological effects?
5 A. She may have, but I can't remember.
6 Q. Did she tell you that there were optimum
7 nicotine deliveries for producing the most favorable

8 physiological and behavioral responses?
9 A. No, I have no memory of ever being told that.
10 Q. Did she tell you there was a certain dose range
11 for cigarettes --
12 A. Dose -- dose --
13 Q. -- with regard to nicotine?
14 A. Not to my knowledge, no.
15 Q. Direct your attention to Exhibit 11771, same
16 volume.
17 A. Yes, I have it.
18 Q. That's a memo to C. K. Ellis. Is that Dr.
19 Ellis?
20 A. Yes, that is Dr. Ellis.
21 Q. And again, she's a chemist; is that correct?
22 A. She's a pharmacologist, I believe, sir.
23 Q. Pharmacologist. Chemical degree?
24 A. I don't know. I forgotten what her
25 undergraduate degree is. But she's a -- she has a
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1 Ph.D. in pharmacology.
2 Q. All right. And the date of this is November
3 8th, 1990; correct?
4 A. Yes, that's right.
5 Q. Do you know who Mr. Gullotta is?
6 A. No. I've heard his name.
7 Q. He's a research and development scientist; is he
8 not?
9 A. Yes, I believe that's right. He's in the
10 research department at least, I know that.
11 Q. And the subject here is "Raison d'etre;"
12 correct?
13 A. Raison d'etre.
14 Q. Raison d'etre. Okay. That means the reason for
15 being?
16 A. The reason to be, uh-huh.
17 Q. Have you seen this document before?
18 A. No, I've not seen this document before.
19 Q. Can you go down to paragraph three.
20 A. Uh-huh.
21 Q. Does it appear to you that Dr. Ellis was told by
22 the three scientists who are listed, on or about
23 November 8th, 1990, that "We have shown that there
24 are optimal cigarette nicotine deliveries for
25 producing the most favorable physiological and
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1 behavioral responses?"
2 A. Yes, that's what it says.
3 Q. Did she tell you that before you testified in
4 Congress?
5 A. No, I don't remember being told that.
6 Q. Are you sure?
7 A. Well I'm pretty sure I don't remember being told
8 that, yes.
9 Q. You are sure you didn't tell Congress that
10 Philip Morris knew that there were optimal cigarette
11 nicotine deliveries for producing the most favorable
12 physiological and behavioral effects.

13 A. No, I never told anybody that because I've never
14 known about that.
15 Q. Did she tell you that your laboratories have
16 demonstrated that all forms of nicotine are not
17 behaviorally or physiologically equal? This
18 observation is important for evaluating research
19 cigarettes where the addition of nicotine is
20 necessary? Did she tell you that?
21 A. No, I've never heard that.
22 Q. Now we saw the other document earlier today
23 talking about the form of nicotine; didn't we?
24 Q. Yes. I found that a very complicated document.
25 I couldn't understand it.

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1 Q. Now Philip Morris has tracked youth over the
2 years, haven't they, in terms of how they smoke?
3 A. Not to my knowledge.
4 Q. Have you looked at the documents to determine
5 whether or not that's true or not, sir?
6 A. No. I wouldn't know where to start, sir. As I
7 said, when I got my job, I decided I could spend the
8 rest of my life looking backwards; I decided to look
9 forward, sir.
10 Q. Well you wouldn't know where to start. You
11 would just ask your people, "I want to know what
12 documents are in our files that either suggest or
13 negate whether we marketed to youth." You could ask
14 that question; couldn't you?
15 A. Well sir, let me say this: In all the years
16 I've worked with Philip Morris, I have never heard
17 anybody talk about marketing to youth, nor have I
18 ever heard anybody suggest that we should, so it
19 wouldn't occur to me to ask whether we had done so.
20 But then I've seen quite a bit of press about it, and
21 I've asked people, and none of -- none of them have
22 ever said to me that we've done that.
23 Q. I don't mean any disrespect by this, but do you
24 have a policy of plausible deniability at Philip
25 Morris?

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1 A. Of which deniability?
2 Q. Plausible deniability.
3 A. I don't know what you mean by that.
4 Q. Well that would mean that we don't show somebody
5 something so then he or she can deny it even though
6 it may be true.
7 A. No, I reject that, sir. I have the utmost faith
8 in the integrity of the people who work at Philip
9 Morris. I'm very proud of them.
10 Q. So that they should show you everything;
11 correct?
12 A. If they thought it was important. I don't know
13 that they should show it to me. They would show it
14 to their superior.
15 Q. And you are the ultimate superior; correct?
16 A. In the end. And then it would be up to people to
17 determine what I should see. That I rely on that.

18 Q. And your company, together with the rest of the
19 industry, has been accused of killing over 400,000
20 people a year; correct?
21 A. I think I'd put it another way, I'd say people
22 have suggested that number of people die from smoking
23 cigarettes.
24 Q. Okay. Now therefore, having that in mind, you
25 could demand any research that is within any file

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1 cabinet within the entire world of Philip Morris if
2 you wanted it; couldn't you?
3 A. Yes. I don't know why I would want to do that
4 because I wouldn't know what -- how to start to deal
5 with it. It would take me thousands of years,
6 probably, to read them.
7 Q. Well it didn't take thousands of years to turn
8 over all the documents in this litigation; did it?
9 A. The documents you're talking about?
10 Q. Yes.
11 A. It was an enormous effort, sir, by, I think,
12 some 600 people or 700 people.
13 Q. Seven hundred people.
14 A. Hmm.
15 Q. Working how long?
16 A. Well I don't know exactly, but probably about
17 nine months or a year.
18 Q. Nine months or a year, 700 people gathering the
19 documents to turn over in this lawsuit; correct?
20 A. That's what I remember.
21 Q. Now let's assume that somebody at Philip Morris
22 had asked for those documents 20 years ago, a CEO of
23 Philip Morris. Okay?
24 A. You're asking me to assume that?
25 Q. Yes.

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1 A. Yes.
2 Q. It wouldn't have taken any longer at that time
3 because more documents were generated in the
4 intervening period; correct?
5 A. I'm not sure what you mean. It wouldn't take
6 any longer than what, sir?
7 Q. It wouldn't have taken any more than 700 people
8 working nine months to gather the documents 20 years
9 ago; would it?
10 A. Well I would have thought it would have; today
11 you have better photocopying machines and probably
12 more technical tools available. But I'm not going to
13 argue over it.
14 Q. Okay. And do you know how many people have
15 started smoking in those 20 years?
16 A. No, I don't, sir.
17 Q. Do you know how many children have started
18 smoking in those 20 years?
19 A. No, I don't.
20 Q. Do you know how many young teen-agers have
21 started smoking in those 20 years?
22 A. No, I don't have any idea.

23 Q. Do you know how many of those teen-agers who
24 started smoking became addicted?
25 A. No, I have no idea, sir, as I told you, how many
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1 even started smoking, if any.
2 Q. Do you know how many people in those 20 years
3 who smoked developed lung cancer?
4 A. No, I don't know that, sir.
5 Q. Do you know how many people in those 20 years
6 have developed chronic obstructive pulmonary disease?
7 A. No, I don't, sir.
8 Q. Do you know how many people in those 20 years
9 developed coronary heart disease?
10 A. (Coughing) Excuse me.
11 No, I don't.
12 Q. Now with regard to youth, sir, do you know what
13 percentage of your market is less than 18 years old?
14 A. No, I have no idea.
15 Q. You've never asked.
16 A. I beg your pardon?
17 Q. You've never asked.
18 A. I've never asked because nobody would know. We
19 don't conduct any surveys of under-age people.
20 Q. You never have done that; correct?
21 A. Not to my knowledge. I watched the deposition
22 of Jim Morgan and I saw some documents produced
23 there, and that is the extent of my knowledge.
24 Q. Well you saw in that deposition that documents
25 showed that Philip Morris was tracking youth;

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1 correct?
2 A. If I remember correctly as Jim defined that,
3 he -- I think it was somebody gathering information
4 from public sources.
5 Q. Do you know what percentage of smokers start
6 before the age of 18?
7 A. No, I don't know.
8 Q. Let's assume that -- take a conservative number
9 and say it's 69 percent. All right?
10 A. Yes.
11 Q. What happens --
12 What would happen to your company if you didn't
13 have 69 percent of the smokers?
14 A. Of which smokers?
15 Q. Of your smokers.
16 A. Could you explain to me your point, please? I'm
17 not -- I don't quite understand --
18 Q. Sure.
19 A. -- the sense of it. What would happen to our
20 company if 69 percent of young smokers didn't smoke?
21 Q. No.
22 A. Oh.
23 Q. Sixty-nine percent of all smokers didn't smoke.
24 What would happen to your company?
25 A. Well I would expect that we would sell 69

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1 percent less cigarettes.
2 Q. A lot less; right?
3 A. A lot less, yes.
4 Q. Be a lot smaller company; wouldn't it?
5 A. Yes, if that's the case. But --
6 Q. A lot less profit; correct?
7 A. Uh-huh, yes.
8 Q. Wouldn't be the 6.7 billion cash flow, would
9 there, in your corporation?
10 A. I believe less.
11 Q. Less. Be much less; correct?
12 A. It would be. We have a number of other
13 companies, sir.
14 Q. But none as profitable as tobacco, sir.
15 A. Not quite. Nearly as.
16 Q. Yes.
17 A. Nearly as.
18 Q. And you'll recall yesterday we talked that the
19 companies started with tobacco and grew from there;
20 didn't we?
21 Q. Yes, that's right.
22 Q. Now do you know if your board of directors
23 received briefings on 16-year-old smokers?
24 A. I don't know, sir. Certainly not under my
25 watch.

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1 Q. Well do you know if they did under Mr. Cullman's
2 watch, who's still on your board, and I -- strike
3 that. He's not on your board. I misspoke.
4 Still attends board meetings; correct?
5 A. He attends some board meetings, yes.
6 Q. Okay. Do you know if it happened on his watch?
7 A. I don't know.
8 Q. Can you direct your attention, sir, to Exhibit
9 10497.
10 A. Yes, I have that.
11 Q. Now this is entitled "A Study Of Smoking Habits
12 Among Young Smokers;" correct?
13 A. Yes, that's correct.
14 Q. And it's prepared for Philip Morris
15 Incorporated, July 1974; correct?
16 A. Yes, that's what it says.
17 Q. And it's prepared by the Roper Organization;
18 correct?
19 A. Correct.
20 Q. And can you turn to the first page.
21 A. Yes.
22 Q. Have you ever seen this document before, sir?
23 A. No, I have no memory of seeing this, sir.
24 Q. And do you see what the purpose of the study is?
25 A. Yes, it says it is to -- "The purpose of this

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1 study among young smokers age 24 and younger was to
2 gain insights as to what is happening with regard to
3 brand preferences...."

4 Q. "...and images of cigarette brands in that
5 segment of the population;" correct?
6 A. Yes, that's correct.
7 Q. Okay. And it says that "Philip Morris has
8 evidence that there has been a rapid trend to
9 menthols -- and to Kools in particular -- among young
10 smokers;" correct?
11 A. That's what it says, yes.
12 Q. And the study was designed to explore the
13 following major questions; correct?
14 A. Yes.
15 Q. And one of those questions was what was
16 happening in the young market with regard to Marlboro
17 to n/m and menthols; correct?
18 A. Yes.
19 Q. What's n/m, sir?
20 A. Well I don't know, but I think it's probably
21 safe to say it's nonmenthol.
22 Q. Number two, in what segments of the age spectrum
23 are Marlboro non-menthol and menthols most popular;
24 correct?
25 A. Yes, correct.

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1 Q. Three, "Are young people starting with menthols
2 or is there mass switching at some point?" Do you
3 see that?
4 A. Yes.
5 Q. And starter smokers, sir, those are people who
6 have never smoked before; correct?
7 A. Yes, I think that's a fair definition.
8 Q. And is it your testimony you don't know that the
9 vast majority of people who start smoking start
10 smoking before the age of 18; is that your testimony?
11 A. Well I don't know, but I've read that most
12 smokers start before they're 18 years of age. I've
13 read that.
14 Q. About 80 percent?
15 A. That's what I've read.
16 Q. Large segment of smokers; correct, sir?
17 A. What is a large segment, sir?
18 Q. Eighty percent.
19 A. Eighty percent is a large segment of a group,
20 uh-huh.
21 Q. Then the next question that was being looked at
22 was whether smoking patterns were different among
23 young blacks and how much more popular are menthols
24 among young blacks; correct?
25 A. Yes, that's what it says.

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1 Q. And fifth, "Do more whites smoke menthols when
2 some of their friends are black than when few or none
3 of their friends are black;" is that correct?
4 A. Yes, that's what it says.
5 Q. And six, "Is there recognition among young
6 people that menthols are growing in popularity?" Do
7 you see that?
8 A. Yes, I do.

9 Q. Okay. Then the next paragraph shows how the
10 study was conducted; doesn't it?
11 A. Well that's what it's described as. I haven't
12 read it.
13 Q. "The study was not designed to be a large scale
14 study projectable to the population, but aimed rather
15 at covering the under 24 age group with inclusion of
16 as many important segments of that group as possible.
17 1,050 interviews were conducted among young smokers."
18 Do you see that?
19 A. Yes.
20 Q. So the Roper Organization was actually going out
21 and interviewing people in this age bracket to ask
22 them about the questions that are in the section of
23 the study which is entitled "Purpose of the Study;"
24 correct?
25 A. Well I don't know what the age bracket is, sir,
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1 that you refer to.
2 Q. Under 24.
3 A. Yes.
4 Q. "A sample was drawn of 35 locations around the
5 country...." Correct?
6 A. Yes.
7 Q. "...with locations roughly apportioned by the
8 four major geographic areas and by size of place;"
9 correct?
10 A. Yes.
11 Q. And on the next page we see that the
12 interviewers were assigned quotas for sex and race of
13 young smokers to insure adequate numbers of whites,
14 blacks, males and females; correct?
15 A. Yes.
16 Q. And the interviewers were instructed to go to
17 locations where young people, as described in their
18 quota assignments, were likely to be found; correct?
19 A. Well I don't see that.
20 Q. Well it's right in that paragraph. Move down
21 toward the -- toward the end of it.
22 A. Yes, I do see that.
23 Q. Near high schools and colleges; correct?
24 A. Yes. It says to be found near high schools and
25 colleges. Yes, you're right.
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1 Q. You find young people under the age of 18 in
2 high schools; don't you?
3 A. I'd certainly expect to, yes.
4 Q. You find them at soda fountains; don't you?
5 A. Well I would have thought so. I'm not that
6 familiar with it.
7 Q. You'd find them at recreation areas; don't you?
8 A. I would have thought so.
9 Q. You find them in parks; don't you?
10 A. Yes, I would have thought so.
11 Q. You find them in bowling alleys and beaches and
12 lakes; don't you?
13 A. Yes, I think that's fair.

14 Q. Now this was a study conducted for and on behalf
15 of the Philip Morris Company in 1974; wasn't it, sir?
16 A. Yes. But I would point out that it's for the
17 under-24 population.
18 Q. Well, that can go all the way down to zero;
19 can't it?
20 A. It certainly can, but it doesn't say that it
21 does.
22 Q. Find a lot of 24- and 25-year-olds,
23 23-, 22-, hanging around high schools?
24 A. No. No. But you may find those people hanging
25 around the other areas, but I take your point.

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1 Q. And the point is: Young teen-agers are in all
2 of those locations; correct, Mr. Bible?
3 A. Well I don't know, but I -- I'm not that
4 familiar with some of those locations, but I think
5 that's a fair assumption, sir.
6 Q. Now do you know how much Philip Morris spent
7 between 1983 and 1994 on advertising, marketing and
8 promotion?
9 A. No, I have no idea.
10 Q. Do you know how much it spent on youth
11 prevention?
12 A. No.
13 Q. If I told you that Philip Morris spent
14 15,914,336,845 dollars on advertising, marketing and
15 promotion from 1983 to 1984 -- or '94, would that
16 surprise you?
17 A. From 1984 to 1990 --
18 Q. 1983 to 1994.
19 A. In the domestic cigarette companies?
20 Q. That's correct.
21 A. How many billion dollars?
22 Q. Fifteen billion nine hundred fourteen million --
23 A. No, that --
24 I could understand that.
25 Q. And if you take a look in your book -- we may

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1 have an exhibit. Well let me get the board for you,
2 sir; you may not have it there.
3 MR. CIRESI: May I approach, Your Honor?
4 Q. Now sir, this comes -- I'll represent to you
5 this comes from information provided by Philip
6 Morris.
7 MR. BLEAKLEY: Your Honor, may I go around?
8 Q. It's Exhibit 20177, and it's youth prevention
9 expenditures to advertising, marketing and promotion
10 expenditures, 1983 to 1994. Do you see that, sir?
11 A. Yes, I see the heading.
12 Q. Okay. Now over here, and it's represented by
13 the green on this pie chart, --
14 A. Uh-huh.
15 Q. -- is the expenditures for advertising,
16 marketing and promotion, 15,914,336,845 dollars. Do
17 you see that?
18 A. Yes, I do.

19 Q. Now during that same period of time, based on
20 Philip Morris's documents, Philip Morris spent twenty
21 million eight hundred eighteen million seven hundred
22 forty thousand dollars on youth prevention, do you
23 see that?

24 A. Yes, I do see that.

25 Q. And that's partly during your watch; isn't it?

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1 A. Yes, that is right, sir.

2 Q. So Philip Morris spent, if my calculations are
3 correct -- and I'd ask you to accept
4 them -- one-tenth of one percent on youth prevention
5 that it spent on advertising, marketing and
6 promotion; is that right, sir?

7 A. Well I'd need to do the calculation.

8 Q. Would you accept that?

9 A. Well one percent of 15 billion I expect is 159
10 million. Am I right?

11 Q. Yes.

12 A. And that to me would be about -- 20 million is
13 one-eighth of that roughly, so I'd say that's
14 about .125.

15 Q. .125 of one percent.

16 A. That's what I would say, uh-huh.

17 Q. On youth prevention, is that right, sir,
18 according to your calculation?

19 A. Well if the numbers are accurate.

20 Q. Now can you direct your attention to Exhibit
21 10299.

22 A. Yes.

23 Q. Have you ever seen that before, sir?

24 A. No, it doesn't ring a chord in my memory, sir.

25 Q. Now this is a smoker psychology research;

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1 correct?

2 A. That's the title, yes.

3 Q. And it's by Dr. Wakeham; correct?

4 A. Yes, that's right.

5 Q. And it's presented to the board of directors at
6 Philip Morris on November 26, 1989; correct?

7 A. Right.

8 Q. Or 1969. Excuse me. Is that right?

9 A. That's correct, yes.

10 Q. Now that's the highest level of the company;
11 correct?

12 A. Yes, that's right.

13 Q. Now certainly they're not provocateurs; are
14 they? Or maybe they are.

15 A. I wouldn't describe them as that, but quite
16 often they stimulate one's thinking, yes, I can
17 assure you of that.

18 Q. And they get information from the company's
19 research departments, et cetera, to stimulate their
20 thinking; don't they?

21 A. Well from time to time we would make a
22 presentation to them, yes.

23 Q. Presentations are made and conversation is

24 stimulated at the highest levels of the corporation;
25 correct?

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1 A. Can you say that again, please?
2 Q. Sure.
3 Information is provided and conversation is
4 stimulated at the highest levels of the corporation.
5 A. Well I'd have thought that's fair comment, yes.
6 I think that would probably happen in every company.
7 Q. And at Philip Morris, its company, they
8 stimulated conversation on 16- to 24 -- 20-year-olds;
9 didn't they?
10 A. I don't believe that to be so, sir.
11 Q. You don't.
12 A. No, I don't.
13 Q. Well why don't you turn to the first page of
14 this document.
15 A. Yes, I have it.
16 Q. "Gentlemen of the Board and Guests." Do you see
17 that?
18 A. Yes.
19 Q. By the way, in 1969 was Joseph Cullman III on
20 the board?
21 A. I think he was chairman then, sir.
22 Q. Chairman.
23 A. I think he was, yes.
24 Q. And now he attends as a guest; correct?
25 A. He's chairman emeritus, yes. He's invited.

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1 Q. And this is from Dr. Wakeham, November 26, 1969.
2 "Once again it is my pleasure to appear before you
3 and to make this traditional annual presentation of
4 Philip Morris Research Center activities." Correct?
5 A. Yes, that's what it says.
6 Q. And sir, if you turn to the page which bears the
7 Bates number 749, --
8 A. Yes, I have that.
9 Q. -- and you see where it says "Slide 13?"
10 A. Yes.
11 Q. And he says, "First, we must break the question
12 into two parts: Why does one begin to smoke?"
13 That's a starter; right?
14 A. Yes.
15 Q. And two, "Why does one continue to smoke?"
16 Correct?
17 A. Yes.
18 Q. Now this appears to be a slide that is being put
19 up on the board to stimulate the conversation;
20 correct?
21 A. Well it would appear to be a slide put on the
22 board. I don't know why it was there, whether it was
23 to stimulate conversation or not. It might be to
24 make a point. I don't know, sir.
25 Q. Well let's see what point was being made if it

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1 wasn't to stimulate conversation. The paragraph
 2 right after what I just read to you.
 3 "There is general agreement on the first part.
 4 The 16 to 20-year old begins smoking for psychosocial
 5 reasons. The act of smoking is symbolic; it
 6 signifies adulthood, he smokes to enhance his image
 7 in the eyes of his peers." Correct?
 8 A. Yes, correct.
 9 Q. Sixteen years old; correct?
 10 A. Yes, correct.
 11 Q. Talking to the board of directors; correct?
 12 A. Yes, that's correct, sir.
 13 Q. And where they would --
 14 That's the highest level of this company; isn't
 15 it?
 16 A. It is the highest level of this company, yes,
 17 the board of directors, yes.
 18 Q. And Dr. Wakeham goes on and says, "But the
 19 psychosocial motive is not enough to explain
 20 continued smoking;" correct?
 21 A. Yes, he says that.
 22 Q. "Some other motive force takes over to make
 23 smoking rewarding in its own right;" correct?
 24 A. Yes, that's what it says.
 25 Q. "Long after adolescent preoccupation with

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1 self-image has subsided, the cigarette will even
 2 preempt food in times of scarcity on the smoker's
 3 priority list." Do you see that?
 4 A. Yes, I do.
 5 Q. Now does that ring a little bell that that might
 6 be addiction?
 7 A. Not to me, sir, no.
 8 Q. Not to you?
 9 A. No, sir, it doesn't.
 10 Q. Does the term "adolescent" ring a bell with
 11 regard to the age we're talking about?
 12 A. Yes, it does, and I'm ashamed of that.
 13 Q. You're ashamed of it.
 14 A. Yes, I am.
 15 Q. And yesterday Mr. Morgan was shocked at it;
 16 wasn't he?
 17 A. He said that, yes.
 18 Q. Called it an anomaly; didn't he?
 19 A. Uh-huh, he did.
 20 Q. Is this another anomaly at the highest levels of
 21 the corporation, sir?
 22 A. Well I don't know what was happening at that
 23 time, sir, but I don't like to see something talking
 24 about the company looking at 16-year-olds.
 25 Q. And we don't know if you're talking about that

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1 today unless we had some documents to see what you
 2 were talking about today; do we?
 3 A. I can tell you categorically today we do not
 4 market cigarettes to under-age people.

5 Q. Well we just have to take your word on that;
6 don't we, sir?
7 A. I'd like you to take my word on it, sir.
8 Q. Yes, I know you would. But we don't have any
9 documents to see what you're really talking about at
10 the board; do you?
11 A. Well I thought you had all of our documents,
12 sir.
13 Q. No. Documents were cut off.
14 MR. BLEAKLEY: Objection, Your Honor,
15 objection to the commentary by Mr. Ciresi.
16 THE COURT: Objection sustained.
17 BY MR. CIRESI:
18 Q. Do you know when discovery was cut off in this
19 lawsuit?
20 A. No, I don't.
21 MR. BLEAKLEY: Objection, Your Honor, when
22 discovery was cut off is not relevant to this
23 witness's testimony.
24 THE COURT: Well the date I think is
25 relevant, yes.

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1 Q. I'm just asking about the date, sir.
2 A. Could you ask the question again, please?
3 Q. Sure.
4 Do you know when our discovery of getting your
5 documents was cut off?
6 A. No, I don't.
7 Q. If I represent to you that it was in 1994, would
8 you accept that?
9 MR. BLEAKLEY: Same objection, Your Honor.
10 THE COURT: You may answer that.
11 A. Well could you ask the question again, please?
12 Q. Sure.
13 If I tell you it was in 1994, would you accept
14 that?
15 A. Yes, I'll accept that.
16 Q. Thank you.
17 Now Dr. Wakeham goes on to report on this slide
18 to the board of directors, "One of the obvious ways
19 to approach the problem is to ask the smoker himself
20 why he smokes? When you do this (and Leo Burnett did
21 this about ten years ago for Philip Morris)" --
22 Do you know who Leo Burnett is?
23 A. Yes. It's an advertising agency.
24 Q. Yes. They went out and they asked adolescents
25 why they smoked; didn't they, sir?

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1 MR. BLEAKLEY: Objection, Your Honor, that
2 is not what the document says. That's a
3 mischaracterization. It says "smokers."
4 THE COURT: Well do you understand the
5 question?
6 A. I was about to say that -- excuse me.
7 Q. That's all right.
8 A. I was about to say that's not what it says.
9 Q. Do you know if Leo Burnett went out and asked

10 adolescents why they started smoking?
11 A. I don't know that Leo Burnett went out and asked
12 adolescents why they asked -- started smoking, so
13 it's not what this says here.
14 Q. But what it does say, sir, is that whoever they
15 asked reacted either to an advertising slogan or gave
16 one of two responses; correct?
17 A. Yes, that's right. "It relaxes me. It
18 stimulates me."
19 Q. Or they will parrot an advertising slogan;
20 correct?
21 A. That's right, uh-huh.
22 Q. And when Dr. --
23 MR. CIRESI: I think I'm losing my
24 microphone, Your Honor.
25 THE COURT: Well just so you're not losing
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1 your mind.
2 (Laughter.)
3 MR. CIRESI: I better not respond to that
4 one, Your Honor.
5 THE COURT: All right. Do you want to take
6 a recess and regroup?
7 MR. CIRESI: We may -- I think it's all
8 right now.
9 THE COURT: Okay. Go ahead.
10 MR. CIRESI: Now the -- well maybe we
11 should take a recess.
12 THE COURT: Let's take a recess.
13 THE CLERK: Court stands in recess.
14 (Recess taken.)
15 THE CLERK: All rise. Court is again in
16 session.
17 (Jury enters the courtroom.)
18 THE CLERK: Please be seated.
19 THE COURT: Counsel.
20 MR. CIRESI: Thank you, Your Honor.
21 BY MR. CIRESI:
22 Q. Mr. Bible, we're still on Exhibit 10299, Dr.
23 Wakeham's report to the board of directors on
24 November 26th, 1969.
25 A. Yes.

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1 Q. And we're still on page 749; right?
2 A. Page --
3 Q. 749.
4 A. 749. Thank you.
5 Q. When the smoker parrots an advertising slogan,
6 that means a slogan used by the tobacco company;
7 correct?
8 A. I'd expect so, yes.
9 Q. So that the advertising was having an effect on
10 the smoker; correct?
11 A. I don't know. I -- I think that's a fair --
12 Q. Fair assumption; isn't it?
13 A. Fair assumption.
14 Q. And Dr. Wakeham then goes on to examine why

15 smokers smoke on the balance of this page and over on
16 to the next page, and he points out differences
17 between smokers and non-smokers; correct?

18 A. Well I haven't read that yet, sir.

19 Yes, it says at the outset breaking into two
20 parts, one, why does one begin to smoke, and two, why
21 does one continue to smoke. We're still on part one,
22 I believe. Is that what you're saying?

23 Q. Right. Then he goes through behavioral
24 differences between smokers and non-smokers. Smokers
25 have higher accident and injury rate; don't they?

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6088

1 A. Yes, I see that, according -- according to this.

2 Q. That -- that would result in more medical
3 expenses, wouldn't it, compared to --

4 A. Yes, I -- I expect so, yes.

5 Q. Yeah. And there's physiological differences;
6 correct?

7 A. Yes. That's described here.

8 Q. Psychological differences; correct?

9 A. Yes, that's described here.

10 Q. And then down to "Cigaret Smoke Effects," that's
11 the approach looking at the immediate effects of
12 smoke inhalation upon the smoker; correct?

13 A. Well I'm not sure who's saying that.

14 Q. Well it's obviously Dr. Wakeham saying it; isn't
15 it? This is his presentation to the board.

16 A. Yes, I think that's probably fair, yes.

17 Q. Okay. "A third way to approach the question is
18 to search for the immediate effects of smoke
19 inhalation upon the smoker."

20 A. Yes.

21 Q. "This approach has also been fruitful. Here are
22 the changes in human body function which follow smoke
23 inhalation. All of these changes have been reported
24 by at least two independent researchers." Correct?

25 A. Yes.

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1 Q. And they're looking at why people continue to
2 smoke; correct?

3 A. Well why does one begin to smoke and why does
4 one continue to smoke.

5 Q. Continue to smoke.

6 A. I just --

7 Q. Now we're looking at why one continues to smoke;
8 correct?

9 A. Well I don't know. Does it say that?

10 Q. Do you know, sir?

11 A. Does it say that anywhere? I don't know
12 where -- I don't know where he jumped from one to
13 two, frankly.

14 Q. All right. Do you see the smoke effects in any
15 event?

16 A. I beg your pardon?

17 Q. Do you see the smoke effects in any event?

18 A. At the bottom of this page?

19 Q. Yes.

20 A. Yes, I do.
21 Q. And it goes over to the next page; correct?
22 A. Yes, it does.
23 Q. And the two at the top of that page are "Arousal
24 center in brain stem excited;" correct?
25 A. Yes.

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6090

1 Q. And we saw in the TABLE memo reference to brain
2 activity also; didn't we?
3 Q. Well I don't quite recall that.
4 Q. Do you recall talking about reactions of the ACH
5 earlier this morning?
6 A. Of the --
7 Q. ACH, the neurotransmitters. Do you remember
8 that?
9 A. I remember we were talking about
10 neurotransmitters, yes.
11 Q. That's in the brain. Do you know that?
12 A. Yes, I think I did know that.
13 Q. And Dr. Wakeham says to the board, "Now what can
14 be said about all of these findings;" correct?
15 A. Yes.
16 Q. He goes on to the next page; correct?
17 A. Yes.
18 Q. And he summarizes with three general
19 observations; correct?
20 A. Yes.
21 Q. And then he goes on in the next paragraph
22 talking about whether or not the differences of the
23 people that are attracted to smoking because it acts
24 as a tranquilizer in a stressful situation, or
25 whether it's something else; correct?

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6091

1 A. "...as some told Leo Burnett."
2 Q. And then he states the research and development
3 department's conviction; doesn't he?
4 A. Well I can't -- I haven't got there. Can you
5 point me to that, please?
6 Q. Sure. "We are of the conviction...."
7 A. Oh, I see, yes, in the next paragraph.
8 Q. See that?
9 A. Yes.
10 Q. "We are of the conviction, in view of the
11 foregoing, that the ultimate explanation for the
12 perpetrated cigarette habit" --
13 A. "Perpetuated."
14 Q. "Perpetuated," I'm sorry. And that is talking
15 about why people continue to smoke; correct?
16 A. Yes.
17 Q. Okay.
18 A. I -- I would have thought so, yes.
19 Q. -- "resides in the pharmacological effect of
20 smoke upon the body of the smoker, the effect being
21 most rewarding to the individual under stress." Do
22 you see that?
23 A. That's what it says, yes.
24 Q. And the pharmacological effect, that refers to

25 the drug effect; doesn't it, sir?

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6092

1 A. I'd have thought that's what it means, yes.

2 Q. So that if we go back to page 749, we see that
3 when we're talking about the adolescent beginning to
4 smoke --

5 A. Where -- where does it say that, please?

6 Q. Back on page 749, right by slide 13.

7 A. Uh-huh.

8 Q. Remember, we broke the question down into two
9 parts, why does one begin to smoke and why does one
10 continue to smoke; right?

11 A. Yes. Yes.

12 Q. And for the 16- to 20-year-old, the act of
13 smoking is symbolic, it signifies adulthood, he
14 smokes to enhance his image in the eyes of his peers;
15 correct?

16 A. Yes.

17 Q. Then he goes through why people continue to
18 smoke over the next few pages and he reaches the
19 conclusion that we just saw: They continue to smoke
20 because of the drug effect; correct, sir? That's
21 what the research and development head reported to
22 the board in November of 1969; correct?

23 A. Can you just point me to that last comment
24 again?

25 Q. Yes. Page 752.

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6093

1 A. Uh-huh.

2 Q. "We are of the conviction, in view of the
3 foregoing, that the ultimate explanation for the
4 perpetuated cigarette habit resides in the
5 pharmacological effect of smoke upon the body of the
6 smoker, the effect being most rewarding to the
7 individual under stress." Correct?

8 A. That's what it says, yes.

9 Q. That's the drug effect; is that right?

10 A. Well I really don't know that's exactly what it
11 does mean.

12 Q. Well "pharmacological" refers to drug; correct,
13 sir?

14 A. I think that's right, yes.

15 Q. So if I take out "pharmacologic" and put in
16 "drug," it would be drug effect.

17 A. Well yes. I don't know the degree, though.
18 That's what I'm challenging on. That's all.

19 Q. In any event, that's what was told to the board
20 of directors on November 26th, 1969; correct?

21 A. That -- that's correct, sir, yes.

22 Q. Teen-agers start smoking because they want to be
23 adults, and then you hook them and they're addicted.
24 That's essentially what's being said here; correct?

25 A. Well I wouldn't agree with that.

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6094

1 Q. You wouldn't.
2 A. No.
3 Q. Now on the Roper study -- remember, we were
4 talking about that before we talked about this
5 document?
6 A. Yes, I do remember that.
7 Q. And you said, you know, 24, that doesn't mean
8 it's younger, and I said well can it go down to zero?
9 Remember that?
10 A. Yes, I do.
11 Q. Do you know how young they were interviewing
12 people?
13 A. No, I don't. I don't that we interviewed people
14 actually.
15 Q. You don't know that they -- pardon me?
16 A. I say I don't know that we've interviewed people
17 under-age.
18 Q. Well will you go back to that Exhibit 10497, the
19 1974 Roper report to Philip Morris.
20 A. Uh-huh.
21 Q. And if you go to the very last page --
22 A. Yes. Is that 185?
23 Q. Yes, it is.
24 A. Uh-huh.
25 Q. And if you look in the upper right-hand
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6095

1 corner, --
2 A. Uh-huh.
3 Q. -- can you look at number 30?
4 A. Yes.
5 Q. "How old do you happen to be?" Correct?
6 A. That's what it says. I don't know what this is,
7 though. May I have a look?
8 Q. Well if you want to, you can turn back to Bates
9 number 182 and you'll see that's the beginning of the
10 questionnaire that was used by the Roper
11 Organization.
12 A. Well I don't know if that's what was used
13 because nothing's completed.
14 Q. Well let me see what it says here. It says,
15 "I'm from The Roper Organization and we're conducting
16 a survey around the country." Do you see that at the
17 top?
18 A. Of? Top of?
19 Q. Top of page 182.
20 A. 182.
21 That's what it says. I think all I'm saying is
22 that there's no indication to me here that this was
23 completed by anybody.
24 Q. Well sir, if you go through the report, it's a
25 report of the interviews.

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6096

1 A. Well I haven't been through the report.
2 Q. All right. Well I want you to assume that's
3 what it is. Can you do that?
4 A. Can I assume that --
5 Q. That's what it is.

6 A. That this is --
7 Q. A report of the interviews that were
8 conducted --
9 A. I see.
10 Q. -- of the over 1,000 people --
11 A. Uh-huh.
12 Q. -- by Roper for Philip Morris. Can you assume
13 that?
14 A. Yes, I can assume that.
15 Q. Now if you go to the last page of the interview
16 form, "How old do you happen to be?" Where do they
17 stop?
18 A. Fourteen or younger. Uh-huh.
19 Q. Fourteen or younger.
20 A. That's what it says, yes.
21 Q. Those children were being interviewed in 1974 by
22 Roper on behalf of Philip Morris based on this
23 document; correct, sir?
24 A. Well I have to agree with you, it does say, "How
25 old do you happen to be?" And that starts at 14 or
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6097

1 younger.
2 Q. And if they were doing that, are you ashamed of
3 that too?
4 A. Yes. You know, I -- I'd need to study the whole
5 document, but it --
6 If they were actually conducting a survey of
7 people that age or children that age to do with
8 smoking habits, yes, I'd be ashamed of that.
9 Q. That's another one you're ashamed of; correct?
10 A. I beg your pardon?
11 Q. That's another one that you're ashamed of.
12 A. I -- yes, I'm very sorry about that.
13 Q. And would that also be an anomaly, or don't you
14 know?
15 A. Well I would say it would -- it would be an
16 anomaly. I would say it certainly wouldn't happen
17 today.
18 Q. Do you know if it was an anomaly up until --
19 let's -- let's use the day you took over, 1994. Do
20 you know if it was an anomaly up to 1994?
21 A. Up to 1994 --
22 Q. Yes.
23 A. -- or after 1994?
24 Q. Up to.
25 A. Up to 1994. I would say it's an anomaly, yes,
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6098

1 because, as I said, I've never ever in my career at
2 Philip Morris ever heard of us ever marketing
3 cigarettes to youth or -- I've never heard or seen of
4 any survey whatsoever.
5 Q. Are you shocked by these?
6 A. I am shocked, yes.
7 Q. And at least you can see from these two that
8 surveys and interviews were being conducted of
9 children as young as 14 by Philip Morris.
10 A. It appears to have been the case, done by Roper,

11 yes.
12 Q. And reports were being made to the board of
13 directors, the highest level of the company, about
14 teen-agers 16 years old; correct?
15 A. Yes. That was that report we saw.
16 Q. Now can you turn, sir, to Exhibit 11808. That
17 would be in the second volume. It's right towards
18 the beginning.
19 A. Yes, I have that.
20 Q. Now do you remember this document, this was
21 during Mr. Morgan's deposition, you watched it
22 yesterday?
23 A. I don't --
24 Q. No, that's not fair, because he was on the
25 overhead and you couldn't see the documents, so I'll

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6099

1 withdraw the question.
2 Do you recall in Mr. Morgan's deposition where
3 he said he was the brand manager in 1979 for Marlboro
4 and he was shown a document on the Philip Morris
5 corporate headquarters letterhead and he was asked
6 whether it was his document, and he just didn't know?
7 Do you remember that?
8 A. Vaguely I do recall that, yes.
9 Q. I'll represent to you that this was the document
10 that was up at that time --
11 A. Uh-huh.
12 Q. -- or that he was looking at. All right?
13 A. Uh-huh.
14 Q. Exhibit 11808.
15 A. Yes.
16 Q. Now have you seen this document before?
17 A. No. It doesn't mean anything to me, sir.
18 Q. Okay. This is a March 29th, 1979 document.
19 A. Uh-huh.
20 Q. Correct?
21 A. Yes.
22 Q. Five years after the Roper report; correct?
23 A. Well I'll accept that. I've forgotten the date
24 of that report.
25 Q. Ten years after the report to the board of

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6100

1 directors; correct?
2 A. Yes, that's correct.
3 Q. Now it's on the Philip Morris letterhead, 100
4 Park Avenue; correct?
5 A. Yes, correct.
6 Q. And in the first paragraph it says, "Marlboro
7 represents 60 percent of Philip Morris USA sales.
8 The brand accounts for one-third of all growth of
9 Philip Morris USA. In 1978 101 billion units were
10 sold." Correct?
11 A. Yes, that's what it says.
12 Q. Now is that in accord with your understanding of
13 where the market was roughly around that time?
14 A. Oh, I don't remember, sir.
15 Q. You don't.

16 A. No. I was not involved in the business then.
17 Q. And can you direct your attention to
18 "Demographics."
19 A. Yes.
20 Q. Remember, you said you didn't think Philip
21 Morris tracked what youth was doing?
22 A. Right.
23 Q. Yes. Okay. "Demographics."
24 "Marlboro dominates in the 17 and younger
25 category, capturing over 50 percent of the market."
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6101

1 Do you see that?
2 A. Yes, I do see that.
3 Q. That's a report here of Philip Morris showing
4 what percentage of the market Marlboro has of the 17
5 and younger age category; correct?
6 A. That's what it says, yes.
7 Q. And it says that Marlboro Red is the choice of
8 the younger group; correct?
9 A. It says Marlboro Red is smoked by the younger
10 group.
11 Q. Okay. And lights by the older group; correct?
12 A. That's what it says, yes.
13 Q. And Marlboro Lights are the 18- to 24-year-old
14 group; correct?
15 A. I'm sorry?
16 Q. Marlboro Lights were the 18- to 24-year age
17 group; correct?
18 A. Yes, that -- that would -- that would be right,
19 yes.
20 Q. And then there's a section down there on
21 advertising. Do you see that?
22 A. Yes.
23 Q. It said, "When Lights were first introduced, it
24 was a management decision that the advertising should
25 be significantly different from Red advertising."
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6102

1 Correct?
2 A. That's what it says, yes.
3 Q. And the Red advertising -- strike that.
4 The Red was the dominant cigarette in the 17 and
5 younger age category; correct?
6 A. It says Marlboro Red is smoked by the younger
7 group.
8 Q. It says it dominates in the 17 and younger age
9 category; correct?
10 A. I don't --
11 Oh, there it is. Yes, it does say that. No, it
12 says Marlboro dominates.
13 Q. Okay. And it says Marlboro Red is smoked by the
14 younger group; correct?
15 A. That's what it says, yes.
16 Q. And the younger group there is the 17 and
17 younger age category; correct?
18 A. That is right, yes.
19 Q. Now when they talk about advertising, we see
20 what happens when Marlboro Lights were first

21 introduced; correct?
22 A. Do we see what happens?
23 Q. Yes.
24 A. Well I haven't read it, sir.
25 Q. Well let me read it to you. "When Marlboro
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6103
1 Lights were first introduced, it was a management
2 decision that the advertising should be significantly
3 different from Red advertising. The problem was,
4 however, that the money spent on Lights advertising
5 was not reinforcing the franchise." Do you see that?
6 A. Yes.
7 Q. And what does "reinforcing the franchise" mean
8 to you?
9 A. I would say that advertising a brand is to keep
10 the awareness level of the brand up with its smokers,
11 and by reinforcing it, you'd like to feel that your
12 advertising is continuing to do that, maintaining the
13 brand awareness.
14 Q. Keeping the brand awareness up among the
15 smokers; correct?
16 A. That would be my interpretation, yes.
17 Q. All right. "A decision was made to integrate
18 Lights into Marlboro Country and that all advertising
19 dollars spent would reinforce the franchise. We now
20 have a single minded advertising campaign which is a
21 source of strength for the brand and successfully
22 conveys flavor and quality at the same time."
23 Correct?
24 A. That's what it says, yes.
25 Q. So they took the advertising which was different
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6104
1 for the 18- to 24-year-olds and merged it into the
2 Red advertising where the younger group dominated;
3 correct, sir?
4 A. I wouldn't characterize it that way, no.
5 Q. But that's what the document says; isn't it?
6 A. No, I don't interpret it that way at all.
7 Q. Well, we do know that Marlboro Red was smoked by
8 the younger group; correct?
9 A. Yes. But I would say that when we're talking
10 about the Marlboro franchise, that by far the
11 majority of the smokers of that brand were adults.
12 Q. Sir, that wasn't my question. We do know that
13 Marlboro Red was smoked by the younger category, 17
14 and younger; correct?
15 A. Yes, that's what it says here.
16 Q. Okay. And that the Marlboro Lights were in the
17 older category, which was the 18 to 24; correct? We
18 know that.
19 A. That's what this says. It says --
20 Q. And we know that the advertising was merged to
21 integrate the Lights into the Marlboro Country
22 advertising in order to reinforce the franchise.
23 That's what it says; correct?
24 A. That's what it says, yes.
25 Q. Thank you.

1 Now, did you receive memos regarding what
2 percentage of the market under 18 Marlboro has from
3 1994 on?
4 A. Not to my knowledge ever, sir, no.
5 Q. Not to your knowledge.
6 A. Not to my knowledge at all, sir.
7 Q. Well if you received it, you would know;
8 wouldn't you?
9 A. I would have thought I certainly would know.
10 Q. Do you know if your people down in the
11 operations got such information?
12 A. No, I don't. But I would be horrified if they
13 did.
14 Q. You would.
15 A. Uh-huh.
16 Q. Did you ever ask them?
17 A. No, I didn't. I would take it for granted that
18 they didn't.
19 Q. Well we see here that they were getting
20 information in 1979 about 17 and younger people;
21 don't we?
22 A. Well that's about 20 years ago, sir.
23 Q. And if they were 17-year-olds in '79, how old
24 are they today, 36?
25 A. Yes.

1 Q. Maybe smoking for 20 years?
2 A. Well that could be the case if they started at
3 17 and continued to smoke, yes.
4 Q. And if they were addicted, they'd still be
5 smoking; wouldn't they?
6 A. Well I don't believe they are addicted, sir.
7 But nevertheless --
8 Q. But if they were addicted, they might still be
9 smoking; correct, sir?
10 A. They might still be smoking.
11 Q. Get them young and hang on to them; correct?
12 A. That's not my philosophy, sir.
13 Q. But we do know that your company was looking at
14 the 17 and younger category in 1979; don't we, sir?
15 A. That's what this says.
16 Q. Yes. And we do know that your brand, which you
17 called the universal sign of consumer brands in your
18 1994 report, dominated in the 17 and younger
19 category; correct?
20 A. That's what the document says here, sir, yes.
21 Q. Are you ashamed of this document?
22 A. I'm sorry about it, yes, I am.
23 Q. And if you go on to the next page, you'll see
24 "1979 Special Programs." Do you see that?
25 A. Which page is that, sir?

1 Oh, yes, I do see it.

2 Q. See it?
3 A. Yes.
4 Q. First of all, right above that it says
5 "Opportunities," to expand the demographic base;
6 doesn't it?
7 A. Yes.
8 Q. "Brand has not achieved its full potential;"
9 correct?
10 A. Yes.
11 Q. "Marlboro is No. 1 in 51 out of 93 marketing
12 areas;" correct?
13 A. That's what it says.
14 Q. "This means that it's not No. 1 in the other 42
15 areas;" correct?
16 A. That's what it says.
17 Q. So they've got some special programs in 1979;
18 correct?
19 A. Well the -- it --
20 There's a heading here that says that, yes.
21 Q. Yes. "Resort coverage in existence for eight
22 years..." correct?
23 A. Yes.
24 Q. That's since 1971; correct?
25 A. Yes.

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6108

1 Q. And "this program represents a continuing brand
2 presence among young adults;" correct?
3 A. Yes, young adults.
4 Q. "For two to three weeks during the spring and
5 summer breaks, the Sales Force promotes the brand
6 heavily..." correct?
7 A. Yes.
8 Q. "Marlboro T-shirts, visors are given away at the
9 beach, bars and other hang outs;" correct?
10 A. Yes.
11 Q. "No publicity nor outside visibility is
12 desired." Correct?
13 A. That's what it says, yes.
14 Q. Didn't want people to know that you were going
15 around beaches and hangouts for young people; is that
16 right?
17 A. Well I don't know what that means.
18 Q. Just don't know, sir.
19 A. No, I don't know. But I could imagine it could
20 mean that, yes.
21 Q. Yes. And it says "The program is expanding and
22 in 1979 will cover the New England Shore, Myrtle
23 Beach, Texas, Padre Island, the Ozarks, Wisconsin and
24 the Jersey Shore." Correct?
25 A. Yes, correct.

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6109

1 Q. Are you ashamed of this, too, sir?
2 A. Well I don't know if that means young people,
3 sir, below young adults. So young adults to me are
4 18 to 24.
5 Q. But if young adults were under 17 and went all
6 the way down to 14, you'd be ashamed; wouldn't you?

7 A. I would not like that at all, sir.
8 Q. You'd be ashamed.
9 A. I -- I would be very sorry and ashamed, that we
10 should not be marketing cigarettes to young people,
11 but I believe that we can market them to adults.
12 Q. Another anomaly?
13 A. Anomaly in what respect, sir? In my -- the
14 period that I've been here? This was before I was
15 CEO.
16 Q. Oh, okay. Well the company's responsible for
17 what it did before you were CEO; isn't it?
18 A. Yes, it is.
19 Q. Yes. And young people hang out on the New
20 England shore -- and by "young people," I mean under
21 age 18 -- don't they?
22 A. I should imagine so.
23 Q. And they hang out at Myrtle Beach; don't they?
24 A. I should imagine so, yes.
25 Q. They hang out at Padre Island; correct?

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

6110

1 A. Well I don't know. I would imagine so.
2 Q. And you'd imagine they hang out in the Ozarks;
3 correct?
4 A. I don't know.
5 Q. But you would imagine they would; wouldn't you?
6 A. I don't know that. I don't even know where the
7 Ozarks are. And I'm ashamed to say that.
8 Q. Okay. Do they hang out in Wisconsin, sir, at
9 beaches and parks and other hangouts?
10 A. I don't know, but I see young people on the
11 beach, yes.
12 Q. And the Jersey Shore, are you familiar with
13 that?
14 A. No, I'm not really familiar with that.
15 Q. You would agree it's fair to assume that young
16 people hang out there, and by "young people" I mean
17 under 18?
18 A. On beaches?
19 Q. Yes.
20 A. Yes, I think that's fair to say.
21 Q. Can you direct your attention, then, to Exhibit
22 11780?
23 A. Yes.
24 Q. This is entitled "PRODUCT TESTING." If you turn
25 to the next page, sir, it's got the full title.

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ADVERSE EXAMINATION - GEOFFREY C. BIBLE

6111

1 A. Yes, I have it.
2 Q. You have it?
3 "PRODUCT TESTING SHORT COURSE," Daniel Ennis,
4 John Tindall, Lisa Eby. Do you know them?
5 A. No, I -- I -- I met John Tindall some years ago.
6 Q. Okay. And what department was he in, sir?
7 A. I seem to recall he was in the product testing
8 department.
9 Q. And --
10 A. Or maybe in market research.
11 Q. Marketing.

12 A. Market, yes --
13 I think he was in product testing in the R&D
14 department.
15 Q. And this is dated January 23rd to January 24th,
16 1984; correct?
17 A. Yes.
18 Q. Richmond, Virginia; correct?
19 A. Yes.
20 Q. And if you go to the preface on the first page,
21 you see it?
22 A. Yes.
23 Q. "In preparing for this short course in Product
24 Testing, there were two considerations. First, we
25 intended to make sure that basic principles and
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6112
1 traditional forms of product testing and analysis
2 were covered. Second, we felt that it was important
3 to communicate our latest thinking on how product
4 testing should be conducted which involves some new,
5 less tried concepts." Do you see that?
6 A. Yes, I do.
7 Q. And the last sentence reads -- and please read
8 it all if you want to, but the last sentence reads,
9 "In this course we hope to provide both the backbone
10 of our testing system and the general direction in
11 which our thinking is headed for the future."
12 Correct?
13 A. Yes.
14 Q. And can you go to the Bates number which has
15 7504. Now I want to direct your attention -- this is
16 the -- in the "Demographic Developments." Do you see
17 that?
18 A. Yes.
19 Q. And this is where they were building the
20 Marlboro brand. Do you understand that?
21 A. No, I don't.
22 Q. Well let me read the second paragraph.
23 "Marlboro floundered for eight years and then hit a
24 responsive chord among post-war baby-boom teenagers
25 with the theme from the Magnificent Seven and an
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6113
1 image uncalculatedly right for the wave of teenagers
2 coming of smoking age." Do you see that?
3 A. Yes, I do see that.
4 Q. Are you ashamed of that, too?
5 A. "Coming of smoking age?" I don't think I'm
6 ashamed of that, sir.
7 Q. You're not.
8 A. If they can reach an adult age when they can
9 form their own decisions, I'm not ashamed of that,
10 no.
11 Q. The wave of teenagers coming of smoking age?
12 What if they were teenagers when they started to
13 smoke, are you ashamed of that?
14 A. It doesn't say that, sir.
15 Q. Doesn't say that.
16 But we do know that Marlboro dominated in the

17 under 17; correct?
18 A. In that earlier --
19 Q. Yes.
20 A. -- paper I read, that's what it said, yes.
21 Q. And the Magnificent Seven, that's the theme that
22 you played when you met with the analysts; wasn't it?
23 A. That's what you told me.
24 Q. That's what the --
25 A. Well at least the Wall Street Journal said that.

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6114

1 Q. They reported it; right?
2 A. I don't remember that though.
3 Q. And that's the one I asked you about when Mr.
4 Bring was there; correct?
5 A. I don't think you asked me about that. I think
6 he was mentioned in the article though.
7 Q. Right.
8 And I think Mr. Bring had said the message was
9 "We could do a hell of a lot better." That's what
10 you -- the message you gave?
11 A. That I gave that message?
12 Q. Yes.
13 A. I don't remember saying that.
14 Q. You don't.
15 Mr. Bring is in the courtroom; isn't he?
16 A. Yes, he is.
17 Q. Been here the last two days.
18 A. Yes, he has.
19 Q. Did you ask him?
20 A. No, I didn't.
21 Q. Can you direct your attention, sir, to Exhibit
22 2557, which is in volume one.
23 A. Yes, I have that.
24 Q. Now this is a memo dated May 21, 1975; correct?
25 A. Yes.

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6115

1 Q. And it's to Dr. Seligman; correct?
2 A. To Dr. Seligman, yes.
3 Q. From Myron Johnston; correct?
4 A. Yes.
5 Q. It's entitled "The Decline in the Rate of Growth
6 of Marlboro Red;" correct?
7 A. Correct.
8 Q. And you see up in the upper right-hand corner
9 they got Dr. Dunn's name?
10 A. Yes. That's handwritten there, yes.
11 Q. Now Dr. Dunn was in research and development;
12 correct?
13 A. I believe so.
14 Q. Now the first paragraph says, "I think Dr.
15 Dunn's memo has very effectively dispelled the notion
16 that nicotine reductions have been cause -- have been
17 the cause of the slackening in the rate of growth of
18 Marlboro Red." Do you see that?
19 A. Yes, I do see that.
20 Q. And do you know if Dr. Dunn's memo referred to
21 whether there was a threshold level of nicotine?

22 A. I beg your pardon?
23 Q. Did Dr. Dunn's memo refer to whether there was a
24 threshold level of nicotine?
25 A. Of which memo of Dr. Dunn, sir?
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1 Q. The one that's being referred to here.
2 A. Oh, I don't know. I -- I haven't seen any memo
3 from DrDunn --
4 Q. Okay.
5 A. -- that I can recollect.
6 Q. Well you saw a memo of Dr. Dunn this morning in
7 1972 relating to the San Martin conference where he
8 put in the threshold level.
9 A. Oh, I'd forgotten that that was his.
10 Q. That was his.
11 A. Thank you --
12 Q. Correct?
13 A. -- for reminding me, uh-huh.
14 Q. Now it then goes on to say that Mr. Johnston
15 chose to investigate the economic and demographic
16 factors that could be responsible for the decline in
17 Marlboro's rate of growth; correct?
18 A. Yes.
19 Q. Now that doesn't mean that it's not growing in
20 the number that's being sold, just the rate of growth
21 had slowed down; correct?
22 A. Well may I read it, please?
23 Q. Sure.
24 A. Can you repeat your question, please?
25 Q. Yes.

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1 The rate of growth doesn't mean that the brand
2 is not growing, it's just the rate of it --
3 A. That's right.
4 Q. -- has slowed down; correct?
5 A. That's how I would interpret that, yes.
6 Q. So the brand is still expanding, it's just not
7 expanding as rapidly; correct?
8 A. Well that would be my interpretation, yes.
9 Q. And people at Philip Morris, when that happens,
10 want to investigate why that's happening; don't they?
11 A. Perhaps so, yes.
12 Q. Well even today you'd want to do that; wouldn't
13 you, sir?
14 A. Yes, I think I would, yes.
15 Q. And that's what Myron Johnston was doing here;
16 correct?
17 A. Well that's what that part of this memo says,
18 yes.
19 Q. And he states, "It was my contention that
20 Marlboro's phenomenal growth rate in the past has
21 been attributable in large part to our high market
22 penetration among younger smokers and the rapid
23 growth in that population segment. I pointed out
24 that the number of 15- to 19-year-olds is now
25 increasing more slowly and will peak in 1996 and then

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1 begin to decline. I also hypothesized that Marlboro
2 would be particularly vulnerable to the recession."
3 Correct?
4 A. That's what it says, yes.
5 Q. And he then points out his opinion with regard
6 to why the growth rate declined for Marlboro;
7 correct?
8 A. Yes.
9 Q. And the number one reason is slower growth in
10 the number of 15- to 19-year-olds; correct?
11 A. That's what it says, yes.
12 Q. And number two, the recession; correct?
13 A. Yes.
14 Q. Number three, price increases in 1994; correct?
15 A. Yes.
16 Q. And number four, changing brand preferences of
17 youngsters; correct?
18 A. Of younger smokers.
19 Q. Younger smokers. Correct?
20 A. Yes.
21 Q. Now he then traces the demographics down at the
22 bottom of the page; correct?
23 A. Yes. It --
24 Well I don't think it traces, there's a heading
25 "Demographics."

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6119

1 Q. "It has been well established by the National
2 Tracking Study and other studies that Marlboro has
3 for many years had its highest market penetration
4 among younger smokers." Do you see that?
5 A. Yes.
6 Q. And that's consistent with the other memo we
7 saw; correct?
8 A. Which other memo, sir?
9 Q. The one that we saw that was on the letterhead
10 of Philip Morris that said you dominated in the 17
11 and younger category. Do you remember that document?
12 A. Yes, I do. But that's not what this says. This
13 says among younger smokers, and I didn't know what
14 age he would be referring to there.
15 Q. All right. Well let's go on.
16 A. Uh-huh.
17 Q. "Most of these studies have been restricted to
18 people age 18 and over, but my own data, which
19 includes younger teenagers, shows even higher
20 Marlboro market penetration among 15 to 17 year
21 olds." Correct?
22 A. Yes.
23 Q. And the date of this memorandum is after the
24 Roper study; isn't it, sir?
25 A. That was '74, was it?

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6120

1 Q. Yes.
2 A. Yes, it is.

3 Q. And that looked at people all the way down to 14
4 and younger; didn't it?
5 A. Well I presume so, because the questionnaire had
6 that in there.
7 Q. "The teenage years are also important because
8 these are the years during which most smokers begin
9 to smoke, the years in which initial brand selections
10 are made, and the period in the life-cycle in which
11 conformity to peer-group norms is greatest."
12 Correct?
13 A. That's what it says, yes.
14 Q. Talking about 15- to 17-year-olds; correct, sir?
15 A. Yes, that's what it seems to.
16 Q. Looking at his own data; correct?
17 A. I don't know if it's his own data. It says most
18 of these studies.
19 Q. Well he talks about my own data; correct?
20 A. Yes, he does, he does talk about my own data.
21 Q. Yes.
22 A. But he -- I think he's saying he's referring to
23 studies earlier on than his own data.
24 Q. Yes. And that own data is what he's referring
25 to in that paragraph; correct? In addition to these

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1 other national studies.
2 A. Yes, it seems to be, that's right.
3 Q. Ashamed of this one, too?
4 A. Well I am ashamed of that, yes.
5 Q. Now is it another anomaly for this period of
6 time before you became the CEO?
7 A. Well yes. An anomaly to me is an unusual
8 occurrence, and frankly I wasn't around then. And I
9 would have thought this was unusual and anomaly -- an
10 anomaly.
11 Q. But if we keep seeing more anomalies, pretty
12 soon it becomes usual; doesn't it?
13 A. Well we've seen a couple. And two or three.
14 It's a large company and we sell a lot of products.
15 Q. We're just talking about cigarettes, sir.
16 A. Yes, I understand that.
17 Q. Do you understand that?
18 A. I understand that, sir.
19 Q. Now one of the other reasons that he felt the
20 decline was the recession and price increases;
21 correct? Correct?
22 A. Yes.
23 Q. Can you go to page three. It starts talking
24 about the recession here; correct?
25 A. Yes.

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6122

1 Q. And if you look at the last paragraph --
2 I take it you haven't read this entire document;
3 have you, sir?
4 A. I don't remember ever seeing this document, sir.
5 Q. Okay. Now I'll represent to you that in the two
6 pages coming up to this, that he talked about the
7 demographics and what contribution that made to the

8 decline in the growth rate. Okay? Can you accept
9 that?
10 A. That's a little bit too broad for me, sir.
11 Q. Well --
12 A. Could -- if you could --
13 Q. Can you accept that for the purposes of the next
14 question? If you can't, then tell me when we get
15 there. All right?
16 A. All right. Sure.
17 Q. Now at the recession --
18 In the recession, if you look at the last
19 paragraph, he says, "This still leaves some of the
20 gap to be accounted for, and does not explain why
21 Marlboro market share is below the regression line."
22 Do you see that?
23 A. Yes, I do.
24 Q. All right. Now, "In my economic forecast, you
25 may recall I said that Marlboro was particularly

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1 vulnerable to the effects of the recession because
2 the highest unemployment rates are among the younger
3 age groups, precisely the groups in which Marlboro's
4 market penetration is highest." Do you see that?
5 A. Yes.
6 Q. Now do you recall me asking you yesterday
7 whether or not it was fair to assume that teen-agers
8 have less money than adults? Remember that?
9 A. Yes. I think I remember you saying that, yes.
10 Q. And I think that we may have quibbled a little
11 bit, but I think eventually you agreed with me;
12 didn't you?
13 A. That young people had less money than older
14 people?
15 Q. Yes.
16 A. I agree with you, yes.
17 Q. Now we go on here, Mr. Johnston says, "In the
18 first quarter of 1975, the employment -- unemployment
19 rate of persons 16 to 19 years old was 20.4 percent,
20 the highest it has been since the Bureau of Labor
21 Statistics began compiling rates by age in 1948." Do
22 you see that?
23 A. Yes.
24 Q. And you know that we did have a recession in
25 that period of time?

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6124

1 A. In 19 --
2 Q. '75.
3 A. -- 75? Not specifically.
4 Q. Okay. You don't recall; is that right?
5 A. Well I don't recall. Let me see. I wasn't here
6 in the United States then, so I don't recall exactly.
7 Q. Can you go on to the next page. "It is my
8 contention that income elasticity is inversely
9 proportionable -- proportional to income level. That
10 is, the lower the income of a specific population
11 group," the lower you go in income, "the greater will
12 be the depressing effect on cigarette sales of a

13 decline in real income." Do you see that?
14 A. Yes.
15 Q. You agree with that; don't you?
16 A. I don't know. It seems a fair comment.
17 Q. Now if you go down through that paragraph, about
18 a third of the way from the bottom, you see where it
19 starts "Marlboro smokers...?" It's over on the
20 right-hand side.
21 A. Yes.
22 Q. Okay. "Marlboro smokers" --
23 No. It's up. Thank you. Same paragraph, but
24 "Marlboro" -- there we go.
25 You see it, sir? You have it?

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6125

1 A. It's -- it's about halfway down the first
2 paragraph?
3 Q. Right. We're together.
4 A. Right.
5 Q. Okay. "Marlboro smokers, being on the average
6 considerably younger than the total smoking
7 population, tend to have lower than average incomes.
8 Thus, I would expect a proportionate --
9 disproportionately large number of Marlboro smokers
10 to quit smoking or reduce daily consumption. In
11 addition, young smokers are less habituated than
12 older smokers, and can therefore probably quit or cut
13 down more easily than a older smoker. Furthermore,
14 many teenagers who might otherwise have begun to
15 smoke may have decided against it because of the
16 adverse economic conditions." Do you see that?
17 A. Yes.
18 Q. Now that ties in with what we just saw on the
19 report to the board of directors in 1969 --
20 A. In which --
21 Q. -- where you get them by peer pressure, and
22 later on in life they continue to smoke because
23 they're hooked; doesn't it?
24 A. I don't remember --
25 Q. Well I may be paraphrasing --

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6126

1 A. -- that we get them by --
2 Frankly, I don't believe we hook smokers.
3 Q. All right. But that's what Dr. Wakeham reported
4 to the board of directors as his conviction of the
5 research department; correct?
6 MR. BLEAKLEY: Your Honor --
7 A. I don't remember --
8 MR. BLEAKLEY: I object -- excuse me. I
9 object, Mr. Ciresi is characterizing the document,
10 the document speaks for itself, and that is not what
11 it said.
12 MR. CIRESI: Well we'll -- we'll go back
13 then. Let's take a look --
14 THE COURT: Rephrase your question.
15 Q. Let's go to Exhibit 10299. Don't lose your
16 place there; hold it, sir. Okay?
17 A. Okay.

18 Q. And if you go to the Bates number 752, this is
19 Dr. Wakeham's report to the board; correct?
20 A. Yes.
21 Q. Okay. "We are of the conviction, in view of the
22 foregoing, that the ultimate explanation for the
23 perpetuated cigarette habit resides in the
24 pharmacological effect of smoke upon the body of the
25 smoker, the effect being most rewarding to the

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1 individual under stress." Do you remember that?
2 A. Yes, I do remember that.
3 Q. And we talked about "pharmacological" being
4 drug; correct?
5 A. Yes. We had a disagreement about that, I think.
6 Q. Yes. Now if you go -- there it is, okay.
7 And earlier in that report to the board, people
8 started smoking because of the advertising slogan or
9 they gave one of two responses, that it relaxes me or
10 stimulates me.
11 A. Yes, I remember that.
12 Q. And the adolescent began to smoke because it
13 enhanced his image in the eyes of his peers; correct?
14 A. Yes, I -- I recall that now.
15 Q. So if we can go back, then, to Exhibit 2557,
16 page four, where we were --
17 A. Yes.
18 Q. Okay? Mr. Johnston's report to Dr. Seligman;
19 correct?
20 A. Yes, I think that's what it is. That's right.
21 Q. And he says, "In addition, young smokers are
22 less habituated than older smokers, and can therefore
23 probably quit or cut down more easily than an older
24 smoker. Furthermore, many teenagers who might
25 otherwise have begun to smoke may have decided

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1 against it because of the adverse economic
2 conditions." Correct?
3 A. That's what it says, yes.
4 Q. Okay. So essentially he's saying they're not
5 hooked --
6 A. That's not what he's saying.
7 Q. -- as much as an older smoker; correct?
8 A. That's not what he's saying there.
9 Q. Well he doesn't say hooked, he says habituated;
10 correct?
11 A. Yes, that's what he says, are less habituated.
12 Q. Now you'd agree that if the price goes up,
13 teen-agers might not otherwise begin to smoke;
14 correct?
15 A. That is absolutely right. And that's what we've
16 negotiated with the states' attorneys general in our
17 proposed resolution.
18 Q. We're going to get to that, sir.
19 A. Thank you.
20 Q. We're going to get to that.
21 Now you say that's absolutely right, but your
22 company has protested that for years, that increasing

23 prices would not depress teen-age smoking; hasn't it?
24 A. I don't know about that, sir.
25 Q. You don't?

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6129

1 A. No.
2 Q. It's taken public positions on that; hasn't it,
3 sir?
4 A. Not to my knowledge.
5 Q. Never?
6 A. I don't know.
7 Q. Now if you turn to the last page, who do we see
8 getting copies of this memo? Mr. McDowell; correct?
9 A. Yes.
10 Q. Vice-president of the company; correct?
11 A. I'm not sure. He could have been.
12 Q. Mr. Morgan, vice-president, brand management and
13 CEO; correct?
14 A. In -- at this point in time in 1975, I think Jim
15 Morgan was what he said yesterday, a brand manager.
16 Q. Right. That's what I said, VP brand management,
17 and he became CEO of Philip Morris U.S.A.; correct?
18 A. Yes, a few years ago.
19 Q. Stayed till 1994; correct?
20 A. About then, yes.
21 Q. When did he leave?
22 A. Oh, I think in November.
23 Q. November of 1994?
24 A. No, November 1997.
25 Q. November 1997.

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6130

1 A. Uh-huh.
2 Q. Just a couple days after his deposition was
3 taken.
4 A. Is that so?
5 Q. You don't know?
6 A. No, I don't know.
7 Q. Dr. Wakeham got a copy. Vice-president;
8 correct?
9 A. Yes.
10 Q. Mr. Resnik, who is that?
11 A. Frank Resnik?
12 Q. Yes.
13 A. Frank Resnik had been CEO of Philip Morris
14 U.S.A. He's now since deceased.
15 Q. CEO of Philip Morris U.S.A.; correct?
16 A. I believe so, yes.
17 Q. Okay. Mr. Thomson; correct?
18 A. Yes.
19 Q. And who is he?
20 A. I seem to recall he ran Philip Morris's
21 operations in Europe.
22 Q. In Europe?
23 A. Uh-huh.
24 Q. Okay. Dr. Osdene, vice-president of research
25 and development; correct?

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- 1 A. I'm not sure of his title, but he was in R&D,
2 yes.
3 Q. And Dr. Gannon, do you know who he is?
4 A. Well I remember him. He was in R&D, yes.
5 Q. Yes. And Mr. Daniel, do you know who he is?
6 A. No, I don't know who he is.
7 Q. So this went to the president, a future
8 president, and high management of the company; didn't
9 it, sir?
10 A. Well I don't know that it went to the president,
11 sir.
12 Q. Well the president of the international, Mr.
13 Resnik.
14 A. No, no. He wasn't president of the
15 international.
16 Q. What was he president of?
17 A. He became president of Philip Morris U.S.A.
18 Q. I'm sorry.
19 A. I'm not sure when.
20 Q. Do you know if he was president at that time?
21 A. I don't know.
22 Q. Okay.
23 A. This is 1975?
24 Q. Yes.
25 A. No, he was not, to my knowledge, no. He was

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6132

- 1 in -- I think he was in research and development.
2 Q. High officials of the company; correct?
3 A. They were senior executives, yes.
4 Q. Talking about children and Marlboro's role in
5 terms of the market for those children; correct?
6 A. This letter from Myron Johnston talks about
7 that.
8 Q. Yes.
9 A. Yes.
10 Q. Ashamed of this one, too?
11 A. I am ashamed. I'm embarrassed about that, yes.
12 Q. Another anomaly?
13 A. Well Jim Morgan described it as -- as an
14 anomaly. I think that's a fair description, yes.
15 Q. So it's another anomaly. Fair statement?
16 A. Well I think you said it was an anomaly before,
17 so I wouldn't like to keep saying the same document
18 is an anomaly. So that it sounds like the same
19 document is ten anomalies; it's one anomaly.
20 Q. All right. So this is --
21 I'm asking you for yours. This is another
22 anomaly that you've seen; correct?
23 A. You asked me about this document before as being
24 an anomaly, and I said yes, I think it is.
25 Q. All right. I apologize if I already asked you

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6133

- 1 that question.
2 A. Thank you.
3 Q. Can you go to Exhibit 10339.

4 A. Yes, I have it.
5 Q. And the date of this document, sir, is 1981?
6 A. Well I can't see the --
7 Oh, there we are. Yes.
8 Q. I apologize for that. If you turn to the third
9 page of the document, you'll see it's on Philip
10 Morris letterhead, and it's got the date March 31,
11 1981?
12 A. Yes. I have that.
13 Q. Okay. Philip Morris U.S.A.; correct?
14 A. Yes.
15 Q. To Dr. Seligman from Myron Johnston; correct?
16 A. Yes. Yes.
17 Q. This is about, what, six years after the last
18 document we saw; correct?
19 A. I've forgotten. That was '75?
20 Q. Yes. Okay.
21 MR. CIRESI: We'd offer Exhibit 10339, Your
22 Honor.
23 MR. BLEAKLEY: No objection.
24 THE COURT: Court will receive 10339.
25 BY MR. CIRESI:

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6134

1 Q. If you could turn to the page that's got Philip
2 Morris U.S.A. Research Center, it's the first page
3 that has actual type on it, sir. The Bates number is
4 804.
5 A. Oh.
6 Q. 804.
7 A. Okay. Got you. That's --
8 Q. Do you have it?
9 A. Yeah. Got it.
10 Q. Okay. The title of this is "Young Smokers
11 Prevalence, Trends, Implications, and Related
12 Demographic Trends." Correct?
13 A. Yes.
14 Q. And it's written by Mr. Johnston; correct?
15 A. Yes.
16 Q. Approved by Harry Daniel and Carolyn Levy;
17 correct?
18 A. Yes.
19 Q. Goes through the distribution list of a number
20 of people; correct?
21 A. Yes.
22 Q. And if you go to Bates number 806, there's some
23 cc's; correct?
24 A. Yes.
25 Q. And Mr. Thomson was director of development;

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1 correct?
2 A. Not to my knowledge, no.
3 Q. Do you --
4 A. I -- I think he was the person who ran Philip
5 Morris Europe.
6 Q. Philip Morris Europe.
7 A. I think that's what his job was.
8 What year was this again?

9 Q. 1981, sir.
10 A. 1981. No, I think he'd left Philip Morris by
11 then, so I don't know who Mr. Thomson is.
12 Q. Okay.
13 A. I'm getting those confused, I think, here.
14 Because I know that Mr. --
15 The Mr. Thomson I'm thinking of left Philip
16 Morris, I think, in 1976.
17 Q. Okay. If I represent to you that he was
18 director of development, that's been told to us by
19 Philip Morris, would you accept that?
20 A. Yes, I would accept that.
21 Q. All right.
22 A. Uh-huh, uh-huh.
23 Q. And Mr. Daniel, do you know who that is?
24 A. No, I don't.
25 Q. Do you know who Dr. Levy is?

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1 A. Yes, I do. That's Dr. Carolyn Levy.
2 Q. Senior vice-president, marketing and sales?
3 A. Today?
4 Q. Yes.
5 A. Yes.
6 Q. And Mr. Meyer, do you know who he is?
7 A. No, I don't.
8 Q. And Mr. Zoler, do you know if he was the
9 director of marketing research?
10 A. I remember that some years ago, yes.
11 Q. Now if we go to the page that has Bates numbers
12 805, do you see that?
13 A. Yes.
14 Q. You see the trends that are set forth there?
15 A. Yes.
16 Q. "After increasing for over a decade, the
17 prevalence of teenage smoking is now declining
18 sharply." Do you see that?
19 A. Yes.
20 Q. "After increasing for over a decade, the average
21 daily consumption of teenage smoking -- smokers is
22 declining." Do you see that?
23 A. Yes, I do see that.
24 Q. Three, "After increasing 18 percent from 1967 to
25 1976, the absolute number of 15- to 19-year-olds will

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1 decline 19 percent during the 1980's, with the period
2 of sharpest decline beginning in 1981." Correct?
3 A. Yes, I do see that.
4 Q. "Beginning in 1981 the absolute number of 20- to
5 24-year-olds, paren, the ages during which average
6 daily cigarette consumption increases most rapidly,
7 will begin to decline, after increasing for the past
8 20 years;" correct?
9 A. Yes.
10 Q. And that's because there were less teen-agers
11 coming into that market; correct, based on what is
12 set forth?
13 A. Well yes, I think that's a fair --

14 That's logical, I think, yes.
15 Q. Okay. Now if you go on to the next page --
16 A. Uh-huh.
17 Q. If you want to read the rest there, please do.
18 Page two, "It is inevitable therefore, the
19 industry sales will begin to decline within the next
20 four years. Thus, Philip Morris USA can sustain its
21 past rate of growth only by an acceleration of the
22 rate of increase in market share." Do you see that?
23 A. Yes.
24 Q. "While this news is not good for the industry, I
25 believe we can use these data and other data I plan
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1 to report on to good advantage in order to minimize
2 the adverse effect on Philip Morris." Correct?
3 A. Yes, that's what it says.
4 Q. Good planning; correct?
5 A. I beg your pardon?
6 Q. That's a good planning principle; correct?
7 A. Yes. I think that's sensible, yes.
8 Q. All right. Then he goes on, "This report deals
9 with only one of these trends -- teenage smoking and
10 attitudes toward smoking, together with related
11 demographics."
12 Is that a good principle, too?
13 A. No, I don't think so.
14 Q. Are you ashamed of this one, too?
15 A. Well no, I -- I would need to know more about it
16 because I don't think this suggests at all that we're
17 marketing cigarettes to teenage smokers. I've got a
18 feeling that Jim Morgan talked about this yesterday.
19 Did he?
20 Q. No, this has not been introduced.
21 A. Well, I think what he is talking about was that
22 Mr. Johnston had been collating public information.
23 Q. Yeah. He was a provocateur; correct?
24 A. That's what he said, yes. That's right.
25 Q. Somebody who stimulated conversation; correct?
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1 A. Well Jim described him as that, yes.
2 Q. Just like you described the board as being
3 stimulated by conversation.
4 A. I didn't say exactly those words, sir.
5 Q. Well the record will reflect what you said.
6 A. Uh-huh.
7 Q. "This report deals with only one of these
8 trends -- teenage smoking and attitudes towards
9 smoking together with related demographics.
10 Subsequent reports will cover the social, economic
11 and psychographic characteristics of teenage smokers
12 and the demographics of other significant age
13 groups."
14 Now, if that's what Philip Morris did, you'd be
15 ashamed of that; wouldn't you?
16 A. Well I don't think that's good at all, sir.
17 Q. Pardon me?
18 A. I don't think that's good at all.

19 Q. You'd be ashamed.
20 A. I'd be ashamed. Yes, I would agree with that.
21 Q. Another anomaly; correct?
22 A. It would be an anomaly, I think, to me. I
23 wasn't around at that time. But it is certainly
24 anomolous to the Philip Morris I know, I can tell you
25 that.

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1 Q. But the company would be responsible for its
2 actions; wouldn't it, sir?
3 A. The company is responsible for its actions.
4 Q. And it would be accountable for its actions;
5 wouldn't it?
6 A. I believe every company is accountable for its
7 actions.
8 Q. Must be accountable; correct?
9 A. Must be accountable?
10 Q. Yes.
11 A. Yes, I think that's fair.
12 Q. Under our system of justice it must be
13 accountable.
14 A. I think under any --
15 MR. BLEAKLEY: Your Honor, this is
16 argumentative.
17 THE COURT: It's becoming argumentative,
18 counsel.
19 Q. Let me ask it this way: Would you agree that
20 under our system of justice, it must be held
21 accountable?
22 MR. BLEAKLEY: I don't think it's relevant.
23 "Under our system of justice," I think that's
24 argumentative and I object to it.
25 THE COURT: No, you may answer that.

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1 MR. BLEAKLEY: "Under our system of
2 justice?"
3 THE COURT: You may answer the question.
4 A. Could you please repeat the question, sir?
5 Q. Would you agree that under our system of justice
6 a company should be held accountable for its actions?
7 A. Yes. I think that's reasonable, yes.
8 Q. Now Mr. Johnston goes on to say, "Because the
9 major data sources have just become available, and
10 because of the importance of these data to the
11 company, I have elected to report the data in a
12 series of memoranda rather than wait and issue all of
13 the material at once." Correct?
14 A. Yes.
15 Q. And if you go to the contents, you see the
16 summary; don't you, sir?
17 A. Yes.
18 Q. Teenage smoking prevalence 1968 to 1974;
19 correct?
20 A. Yes.
21 Q. Teenage smoking prevalence 1975 to 1980;
22 correct?
23 A. Yes.

24 Q. Smoking prevalence and educational aspirations;
25 correct?

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1 A. Yes.
2 Q. Race differences in smoking prevalence; correct?
3 A. Yes.
4 Q. Regional differences in smoking prevalence;
5 correct?
6 A. Yes.
7 Q. Future smoking expectations; correct?
8 A. Yes.
9 Q. Reasons for decline in teenage smoking; correct?
10 A. Yes.
11 Q. Conclusions and implications; correct?
12 A. Yes.
13 Q. If you go to the next page to the summary, do
14 you see down in the third paragraph there's reports
15 about 12- to 18-year-olds?
16 A. Yes, I do.
17 Q. "Average daily consumption of these young
18 smokers also increased...?"
19 A. Yes, I do see that.
20 Q. Do you think it's a good idea for Philip Morris
21 to be tracking 12- to 18-year-old smokers?
22 A. Well I don't know if they're tracking them.
23 Q. Well let me ask it this way, because I don't
24 want to quibble with you. Okay?
25 A. Thank you.

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1 Q. Do you think it's good for Philip Morris to be
2 reporting to a number of people within the company,
3 including people in management, about average daily
4 consumption of teenage smokers, not even teen-agers,
5 12 to 18?
6 A. No, I don't think that's appropriate, sir.
7 Q. You're ashamed of that; aren't you, sir?
8 A. Well I'm ashamed of it, but I don't know the
9 circumstances under which this was done.
10 Q. And if you turn to the "Conclusions and
11 Implications "--
12 A. Can you point me to a page, please?
13 Q. Sure. I'm sorry. Page 828, last three Bates
14 numbers. "The decline in the percent of teenagers
15 who smoke, their decreased levels of consumption, and
16 the decline in their absolute numbers means that the
17 industry can no longer rely on an ever increasing
18 pool of teenage smokers to replace adult smokers lost
19 through natural attrition." Do you see that?
20 A. Yes.
21 Q. "Natural attrition." People who die; correct?
22 A. Well I would say die or quit.
23 Q. Die or quit.
24 A. Hmm.
25 Q. And maybe die from lung cancer; correct?

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1 A. Well it's certainly possible.
2 Q. Die from coronary heart disease; correct?
3 A. Well people can die from that, yes, sir.
4 Q. Die from chronic obstructive pulmonary disease;
5 correct?
6 A. People can die from that, sir, yes.
7 Q. Die from bladder cancer; correct?
8 A. I think there are many things people die from,
9 sir.
10 Q. All of the things I mentioned have been found to
11 be caused by cigarette smoking by the Surgeon General
12 of the United States; correct, sir?
13 A. I'm not so sure about that, but I certainly
14 agree that he has said lung cancer and emphysema and
15 heart disease.
16 Q. All found to be caused; correct, sir?
17 A. Yes, that's what he has said.
18 Q. And your company and the other companies through
19 The Tobacco Institute have lobbied in this state to
20 kill legislation that would keep children from
21 smoking; haven't you?
22 A. I'm not familiar with that, sir.
23 Q. Can you direct your attention to Exhibit 14488.
24 A. Yes, I have it.
25 Q. This is a Tobacco Institute document. Do you
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1 see it, sir?
2 A. Well I don't know that it is, but I'll accept
3 that it is if you tell me it is.
4 Q. You see down in the lower right-hand corner "TI
5 Minnesota," you see that?
6 A. Yes, I do.
7 Q. Do you know if this was another document that
8 was just released on the Internet last Friday?
9 A. I have no idea.
10 Q. And you see the date in the upper left-hand
11 corner?
12 A. Yes.
13 Q. April 11th, 1985?
14 A. Yes, I do.
15 Q. And I'll represent to you that the author and
16 the addressee or recipient of this memo worked for
17 The Tobacco Institute in 1985. Will you accept that?
18 A. I don't know that, but I'll accept that, yes.
19 Q. And your company financed The Tobacco Institute
20 in 1985; didn't it?
21 A. I think we would have been one of the
22 contributors. I think all of the companies
23 contribute to The Tobacco Institute.
24 Q. You would have been the largest contributor
25 because you had the largest share of the market;
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1 correct?
2 A. I believe that's right, because I believe we
3 contribute --
4 But in 1985, I'm not sure if we were the

5 largest. We probably were.
6 Q. And there's a background section. Do you see
7 that?
8 A. Yes.
9 Q. "Since January, as you know, the situation in
10 Minnesota has been 'uncommonly active.'" Do you see
11 that?
12 A. Yes.
13 Q. And it says that -- 39-point technical advisory
14 committee report on non-smoking and health, do you
15 see that?
16 A. Yes.
17 Q. And there was a raft of legislative issues;
18 correct?
19 A. Well hang on. I can't keep up with you. Held
20 the promise, yes, I see that.
21 Q. Thirty-nine separate legislative proposals;
22 correct?
23 A. That's what it says.
24 Q. And do you see where it says about halfway down
25 or a little bit more than halfway in that paragraph,

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1 "The ink" -- it's over on the right-hand side.
2 A. Yes, I have that.
3 Q. "The ink was not yet dry on this report before
4 our lobbyists initiated an aggressive and focused
5 effort in communication with legislative leadership
6 and targeted key legislative activists. This effort
7 was successful in preventing a majority of the report
8 from seeing its way from the drafting board to a
9 legislator's hand." Do you see that?
10 A. Yes, I do.
11 Q. It also points out that ten separate bills
12 survived and have evolved to form the basis of our
13 opponent's legislative agenda; correct?
14 A. That's what it says.
15 Q. And then it goes on to point out that these
16 strategic moves came on the heels of a four-day visit
17 by United States Surgeon General C. Everett Koop;
18 correct?
19 A. Yes, that's what it says.
20 Q. And that Koop, in a well-publicized media event,
21 testified before several legislative committees and
22 study groups; correct?
23 A. Yes, that's what it says.
24 Q. And it says here that in a previous memo, the
25 author, Mr. Brozek, had noted that Koop's appearance

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1 in Minnesota was timed to bring life to a flagging
2 and scattered legislative effort by the Minnesota
3 lung, cancer, and heart organizations; correct?
4 A. That's what it states.
5 Q. Public health organizations; correct, sir, those
6 three?
7 A. Which three, sir?
8 Q. Lung, heart, and cancer.
9 A. Yes, they would seem to be -- that seems to be

10 accurate.
11 Q. Interested in the public health; correct?
12 A. That -- that would seem to me to be accurate,
13 yes.
14 Q. Do you remember the promise in the Frank
15 Statement to cooperate closely with those whose duty
16 it is to protect the public health?
17 A. Yes, I remember you pointing that out to me.
18 Q. And if you turn to the next page, sir, --
19 A. Yes.
20 Q. -- talks about the status of bills; correct?
21 A. Yes, it seems to.
22 Q. And do you see the status for SF, which would be
23 Senate File 38?
24 A. Yes.
25 Q. And that was a bill which would increase state
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1 excise taxes on cigarettes to 54 cents a pack,
2 earmarking those revenues for the state medical
3 assistance fund. Do you see that?
4 A. Yes, I do.
5 Q. And that language contained in the legislation
6 formally referred to tobacco-related illnesses?
7 A. Yes, I see that.
8 Q. And do you see the legislative program action
9 notes where it says that efforts by your
10 organization, The Tobacco Institute, are continuing
11 to kill this bill in committee?
12 A. I read that, yes.
13 Q. And can you direct your attention to page 954 of
14 this document.
15 A. Yes, I see that.
16 Q. And you see Senate File 776?
17 A. Yes.
18 Q. And House File 810?
19 A. Yes.
20 Q. And this was bipartisan legislation by Senator
21 Nelson, a member of the Democratic Party, and
22 Representative Quist, a member of the Republican
23 Party. Do you see that?
24 A. Well I didn't know Senator Quist was a member of
25 the Republican Party.

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1 Q. Let me represent to you that IR stands for the
2 Republican Party, and DFL stands for the Democratic
3 Party. Will you accept that?
4 A. Yes, I will.
5 Q. And then it reads that this is Governor
6 Perpich's priority legislation. Bill would increase
7 cigarette tax by 15 cents per pack in order to
8 segregate revenues for youth education, community
9 stop-smoking programs, work-place initiatives,
10 sampling ban, advertising bans, and then sewer
11 construction, mosquito control and general mischief,
12 do you see that?
13 A. Yes.
14 Q. And right below that, legislative program action

15 notes, your organization, they stated it is at the
16 finance committee level that we hope to defeat this
17 measure; correct?
18 A. Yes, it says that.
19 Q. Are you ashamed of that, too?
20 A. No, I'm not ashamed of it, sir, because I
21 haven't read the whole report.
22 Q. And if you turn to the back page, sir, the last
23 page, page nine.
24 A. Page --
25 Q. Nine, at the top.

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1 A. Yes.
2 Q. Do you have it?
3 A. Yes.
4 Q. The conclusion is stated there; isn't it?
5 A. Well I don't know it's a conclusion. It's the
6 last paragraph.
7 Q. Well it's under "SUMMARY;" isn't it?
8 A. Well I haven't seen that. You haven't referred
9 me to that.
10 I now see it, yes.
11 Q. "Every possible legislative, political, social
12 and theoretical angle is being utilized in our
13 efforts to get out of this session unscathed. Since
14 Minnesota has seen fit to designate itself, as
15 Surgeon General Koop stated, 'a model for the
16 country' with regard to anti-smoking legislation, our
17 only choice in this matter is a complete victory.
18 Anything less could be used against us in other
19 areas. We will employ all means to secure that
20 victory." Do you see that?
21 A. Yes, I do.
22 Q. And you were the major contributor, your
23 company, to that effort; weren't you, sir?
24 A. Well I don't know if we were, but we would have
25 been a significant contributor to The Tobacco

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1 Institute.
2 MR. CIRESI: Your Honor, that might be --
3 THE COURT: We should recess and reconvene
4 tomorrow morning at 9:30.
5 THE CLERK: Court stands in recess, to
6 reconvene tomorrow morning at 9:30.
7 (Recess taken.)
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